

Comments on the 1st Informal DRAFT

Chapter 246-366 WAC PRIMARY AND SECONDARY SCHOOLS

The Washington State Department of Health sought and received comments on the 1st *Informal DRAFT* of proposed changes to Chapter 246-366 Washington Administrative Code (WAC), State Board of Health School Rule for Environmental Health and Safety, Kindergarten -Twelfth Grade. The following table presents the comments in the order of the proposed new Section and Subsection numbering sequence.

Updated : May 31, 2006 / 5:00 PM

Comments Received on the 1st Informal Draft Rule for School Environmental Health & Safety

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Comment Category

- A** Capacity of Schools and LHJs to Implement
- B** Cost of Implementation for Schools and LHJs
- C** Compliance and Enforceability
- D** General or Miscellaneous
- E** Water Quality / General
- F** Air Quality / General

Section 1 (246-366-) General Provisions

- 100** Applicability
- 110** Introduction and Purpose.
- 120** Definitions and Acronyms

Section 2 (246-366-) School Facility Development

- 200** Applicability.
- 210** Site Approval.
- 220** Plan Review And Pre-Opening Inspection Of Schools.
- 230** ~~Buildings~~ Facility Design—General.
- 240** Heating, Ventilation And Air Conditioning Design.
- 250** Lighting: Natural And Artificial.
- 260** Sound Control.
- 270** Food ~~Handling~~ Service Facilities Design.
- 280** ~~Plumbing,~~ Water Supply, Plumbing And Fixtures
- 290** Sewage Treatment And Disposal.
- 295** Playgrounds—Design & Construction.

Section 3 (246-366-) School Facility Operation

- 300** Applicability.
- 310** School Facility Operation—General.
- 320** Heating, Ventilation and Air Conditioning Operation.
- 330** Mold Prevention & Remediation.
- 340** Food Service Facilities Operation.
- 350** Water Quality Monitoring for Lead.
- 360** Onsite Sewage Treatment And Disposal Systems.
- 370** Pest Management.
- 380** Safety.
- 390** Playgrounds—Operations.

Section 4 (246-366-) Environmental Health & Safety Administration

- 400** Applicability.
- 410** School Officials' Responsibility.
- 420** Local Health Officers' Responsibility.
- 430** Department of Health's Responsibilities.
- 440** Exemption.

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- A** With respect to proposed WAC 246-366-040, which identifies what the Local Health Officer "shall" do, please be advised that in Klickitat County the LHO shall continue to assess the needs of our own communities, and determine how to apply our extremely limited resources to best meet these needs. Be further advised that this is very unlikely to include annual inspections of all school facilities, regardless of what the Dept. of Health and the State Board of Health dictate we "shall" do. We will continue to be unresponsive to unfunded mandates. I request that the language in this section be amended to reflect a more cooperative and less dictatorial relationship between the State and LHJs. Thank you for considering this matter.
- A** Clark County LHJ doesn't have enough staff or trained staff to do annual inspections. This would take at least 1 FTE.
- A** Are there qualified people to do the annual inspections?
- A** There is not capacity at LHJ's to do annual inspections.
- A** References to Other Regulations, Standards, Procedures. The proposed rule includes many references to other regulations, procedures, standards, etc. An example occurs in WAC 246-366-350 (1) (b), Water Quality Monitoring for Lead, which states that "school officials shall use the Environmental Protection Agency's 3Ts For Reducing Lead in Drinking Water in Schools (EPA publication 816-B-05-008)...." Our concern is that we are unfamiliar with a number of the procedures, rules and standards referenced and do not have the capacity to become trained to evaluate compliance with them. Schools have expressed concerns as to which agency is responsible to enforce those particular codes. We request clarification as to expectations and responsibilities of local health jurisdictions when such things are referenced, especially regulations and/or procedures generated by an agency other than DOH.
- A** If school plans come in one every three years, LHJ's lose the expertise to review them.
- A** The proposed air quality and sound requirements are out of reach. There is no equipment for LHJs to use so recommend going to L&I for response.
- A** The annual inspection requirement of each school facility; though entirely in favor of; is not practical or even attainable at this point due to the huge time and financial burden. Our local health department is already budget strapped, and if they approve self-inspections, our District as well as other districts clearly do not have the personnel or budget to do ourselves or to even outsource the inspections. We must comply with numerous governing bodies and hundreds of regulations with extremely limited resources. And then there is fixing the identified problems or compliance issues requiring even greater resources. I believe the State needs to step in and earmark dollars for environmental, health and safety improvements and compliance
- A** Would need training/certification of LHJ staff since we do not have expertise or related equipment in some of the areas cited (measuring noise levels), and our one person who is a certified school safety inspector is about to retire.
- A** Would need an additional FTE to serve the 165+ schools in Clark County...no funding to support it unless we charge fees to the school, and schools here are very broke (and they would also have to bear the cost of lead testing etc.). This would be an expensive service given the amount of coordination, plan review, types of inspections, and formal reports to school boards, etc. throughout the process.
- A** Where are they supposed to come up with air quality equipment?
- A** What exactly does "periodic" mean? Now it's annually. How are they supposed to do this after I-901? They need funding. Both the LHJs and the school districts. Funding, funding, funding. What are the minimum standards for an inspection?
- A** Annual inspection of schools by LHJs... Capacity?
- A** Districts and LHO don't currently have the capacity to successfully implement these rules.
- A** Local Health districts don't have the FTEs (staffing) to do the job, nor do they have the training or time...many simply are not interested...or consider it "fictional jurisdiction"
- A** More time is needed to determine the impact of the new rules on school operations. Neither the school districts nor the Local Health Officials currently have the capacity to successfully implement this plan.
- A** There was a comment made that questioned if the Local Health Officer, or their designee, would have the expertise needed to provide meaningful comment in site planning process. These regulations again provide an opportunity for the Environmental Health Specialist to address basic environmental concerns in the early stages of planning, as we

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commonly do in all restaurant construction, hazardous waste cleanup projects, public swimming pool construction, sewage system design, solid waste facilities and other important projects in our community. Environmental Health Specialists are registered with the state through examination and are required to have a minimum education of a Bachelor of Science Degree along with continual education. Typically, in their career, an Environmental Health Specialist will see many examples where architects or engineers have overlooked items important to environmental health and they were able to work with them and the building department to work out solutions. I have had several occasions where school site reviews have proved to be beneficial. For example, I corrected a situation where a school would have been operating on a site with highly contaminated soil. I was also able to address a situation where a school was proposed to be built over a high-pressure gas main. With property values rising, communities may be tempted to place schools on questionable property, in which case, professional Environment Health Specialists should be utilized to evaluate the conditions.

- A** The total days needed for the routine inspections for the public schools in Kitsap County = 47. This would not include follow-up inspections, may or may not include writing the report or unusual situations at the school that would make the inspection longer in length. Also, the inspector may or may not be able to do two elementary schools in a day. It looks like at a minimum a 0.25 FTE EHS and in reality it may be 0.5 FTE for a school program with the HD inspector doing the inspections. If the HD just did a review of the annual reports submitted by the schools, it may be less than a 0.25 FTE EHS. Also to conduct the inspections we would possibly need some more equipment and training by DOH.

As you can see this is a fairly large block of time for us to devote to a program that unless funded will most likely not happen in our local jurisdiction. We have many other mandated programs that are funded through our fees. Our BOH has said it will not have us doing programs that are unfunded. The other item that I see as a problem, even if we were to get the funding, is the fact that schools have never been able to take care of the problems we find when we do come in and perform an inspection. They are just as strapped for funding as is public health. So the other big question is, are we going to be wasting our time if we do try and develop and implement a school program? This is exactly what happened 25 years ago and is the reason we only do plan reviews and kitchen inspections in our schools today.

- A** Who will be enforcing this rule? Make the schools responsible for ensuring that inspections are done, not the health department. This will require that Grays Harbor obtain an additional .25 FTE .
- A** I would like any reference to mandatory school inspections by the local health jurisdiction removed from the regulations. It amounts to another unfunded mandate. Most LHJ don't perform routine comprehensive school inspections now. Why? Because we do not have qualified personnel or the funding to carry out a comprehensive program. Make the school districts responsible. Their ESD risk managers or a private party can conduct the inspections. Better yet, maybe DOH needs to start a school inspection program.
- A** Additional testing, inspections and monitoring are resource issues for both schools and local health officials. Local health departments frequently charge fees for service, which is a difficult situation for many school districts. It is imperative that there is work done to find resources for both agencies to implement this rule in a meaningful and cooperative manner.
- A** Funding Concerns: There are a variety of hidden costs that should be considered along with these rules. Staff will need training (Certified Playground Inspectors, WDOH school training, topic specific training (mold, indoor air, etc.)), and equipment (light meters, noise meter, playground safety tool kits, thermometers, CO2 meter, flashlights, smoke tubes, etc.) to fulfill the requirements of these rules.
- B** This appears to be another unfunded mandate.
- B** There are several changes in these WAC that result in added costs to local school districts. Has anyone though through how these added costs to schools are going to be funded?
- B** The raising the heating requirement from 65 to 68 degrees. A three degree increase in required room temperatures. What does that cost and who pays?
- B** Developing a mold prevention and remediation plan. What is that going to cost? Who is going to do it at what cost? Water quality monitoring? Okay, sounds good, but where is the money to pay staff and fees to develop plans and carry them out?
- B** Pest management plan appears to be dictating school district policy. I thought that was the job of the school board. We take care of things like that without a specific policy or plan. Developing policy and plans are not done without costs.
- B** Certified playground safety inspectors, who is going to pay for them?
- B** We're now going to have the LHO do an annual inspection of all schools? What are you doing developing jobs?

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- B** Record keeping? Are we now being mandated to hire additional staff to do recordkeeping for the DOH without any additional funding?
- B** This proposed WAC is full of additional cost items to schools and I bet you don't have a plan to fund them?
- B** Proposed 246-366-320(1) "--maintain a minimum temperature of 68 degrees----" Has anyone calculated the amount this is going to cost each district per 1000 SF of floor space? We are maxing our taxpayers to limit now and this requires us to go even further.
- B** WAC 246-366-420 requires the local health officer to inspect each school at least annually for compliance with the regulations. THIS IS ANOTHER UNFUNDED MANDATE for local health jurisdictions. Some will say, "charge a fee to pay for the inspections". This will not work in Walla Walla County because fees will NOT PAY FOR AN ADDITIONAL SANITARIAN. So the extra workload falls on existing staff. Existing staff are currently maxed out - period! If the regulations are adopted with the annual inspection requirement, the inspections will not be done in Walla Walla County. Rewrite the regulations and place total responsibility for compliance on the school districts without a requirement for annual inspections by the local health officer.
- B** I note several items that will impose costs on districts:
- Written mold prevention and mediation plans- who pays?
 - Updating of plumbing profiles each time a fixture is changed-
 - Triennial lead in water sampling (or 2 X per year for flushing)
 - Written IPM plan
 - Sealing treated wood- this will lead to playground removal and lowered health for students
 - Annual playground inspections by Certified inspectors
 - Required environmental health communication plans
 - Required record keeping
- All these will cost our district \$10,000- 25,000 per year. This is money directly removed from educational processes. We value children's health and do everything possible to protect it in our District. We take pride in the effort we put into our facilities, but unfunded mandates drain the limited pool of funds available to educate kids. Perhaps the LHO will refund all the fees they charge for inspecting our schools to help pay for these mandates!?
- B** Unfunded mandates are a great burden on already cash strapped districts.
- B** For the proposals involving already constructed buildings, more money for M&O by the legislature and a simple majority on levy elections would help take care of problem areas. I can see having a guide to follow that outlines the proposals and then allocating the money for schools to be able to afford to make repairs or replace worn out systems and equipment as needed.
- B** Need to work closely with Legislature for securing funding for sampling.
- B** For enforcement to be viable, need sufficient funds so schools can be successful to do what the rules say they must do.
- B** The rule doesn't speak to LHJ's charging fees. Also there will be costs incurred for record keeping and responses, lead testing, and data collection. Smaller schools have only one individual to do all of this and schools will be strapped to do it all.
- B** Another unfunded mandate just like WSALS, No Child Left Behind, etc. Leaves local tax payer stuck to cover the costs.
- B** For annual inspections to occur, LHJ's would have to charge a fee.
- B** Need to consider the cost to implement.
- B** Funding needs to be available for any of this to occur.
- B** Not financially possible to do annual inspections if funding doesn't occur so drop this requirement completely. There are already several agencies involved with school inspections.
- B** We are concerned that the Department is using the rule making process to create unfunded regulations that have been previously rejected by the Legislature. School maintenance costs are under-funded by the state funding formula and the amount of funding many schools can generate through voted local levies is already capped by law. Any additional unfunded mandates will directly impact some aspect of the educational program. Local concerns should prioritize these limited funds, not generalized state-wide rules which while nice in the ideal, give no guarantee of improved student or

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employee health.

- B** Finally, any requirements in this proposed rule which add costs to school districts without providing funding for those costs should be removed or listed as recommendations. For example, the lead testing rule should be advisory to districts who want to implement a water testing program unless funding is provided for the program. Creating unfunded mandates in the rule making process – especially on topics which have been heard and dismissed by the Legislature – undermines the public trust in government.
- B** Having reviewed the draft of the proposed rule changes for Washington State schools concerns me and forces some fundamental questions towards the implantation and fiscal impacts throughout all the schools in Washington. The new draft has a significant amount of new rules / regulations that will bring many school districts into a position that enforcement would create an undue hardship upon the school.
- B** Through a process of this magnitude brings some questions toward a stable funding source for maintenance & operations. Districts that have had health and safety issues in the past could possibly have been avoided if a stable funding source was in place for maintenance & operations. I would think, rather than create rules & enforcement that will lead to fines & litigation costs, we should be collectively identifying a solution that will help every school in the State Of Washington, and one idea is a stable funding source for maintenance & operations. Most everyone understands that M&O are subject to general fund cuts when a financial situation is placed before a school organization. Everyone needs to understand this reality and apply the concept to these rule revisions.
- B** I would ask that the Washington State Health Department Board of Directors take a serious look at all the information you receive and weight the individual situations with the fiscal impact throughout all schools (large & small) within the State Of Washington. We should seek a solution rather than another unfunded mandate that local districts & communities (NOT THE STATE OF WASHINGTON) will have to fund.
- B** Central Valley School District pays around \$5000.00 for school inspections. They are based on \$70.00 per hour. An example of my frustration is we were written up for not having CO2 monitors in the schools which was a recommendation. I am paying someone \$70.00 to inspect and write something that is a recommendation. Further more, I have several schools that do in fact have CO2 monitors however the same recommendation was written. I feel if the LHO is going to inspect for CO2 monitors and I am paying them to do so they need to have the knowledge to determine if in fact if the site has the monitors. There are other issues that fall into the same area as well. The other issue is why do some charge by the hour and others charge a flat fee?
- B** Was there an economic impact analysis done for this? We are trying to tally the number of hours it will take to perform the required annual inspection of each mandated item. It appears that either the LHO or the District will need to add 2 or 3 full time staff just for the inspections of our District's 100 school buildings. If additional funding is being provided to either DOH budgets or to school district budgets, it will not rob any additional resources from our classrooms. Otherwise, it just expands the gap between State funding levels and what is needed to provide a quality public education.
- B** It also will have a big impact on capital projects, adding at least 2 to 5% to construction costs based on our early review.
- B** Wait till you start computing the cost of water samples -- every three years -- perhaps Seattle can guide us there since they have done some of that recently. Be sure to download the EPA doc cited in this -- It is 100 pages of details that they want to adopt with one small entry.
- B** Finally and most notably, the annual inspection requirement of each school facility; though entirely in favor of; is not practical or even attainable at this point due to the huge time and financial burden. Our Seattle-King County local health department is already budget strapped, and if they approve self-inspections, our District as well as other districts clearly do not have the personnel or budget to do ourselves or to even outsource the inspections. We must comply with numerous governing bodies and hundreds of regulations with extremely limited resources. And then there is fixing the identified problems or compliance issues requiring even greater resources. I believe the State needs to step in and earmark dollars for environmental, health and safety improvements and compliance. But then I am preaching to the choir....
- B** In closing, the Department must consider all of the costs associated with the implementation of the draft rule as soon as possible. These are sweeping changes which will not only impact school operations budgets but will divert employee time from other important activities. I also remain concerned that the draft does not contain reference to any enforcement and/or penalty provisions that the Department is considering.
- B** Specifically, the rule changes will create costly unfunded mandates that will impact Maintenance, Facilities & Construction, Custodial and Administration budgets and take education dollars directly from the classroom.

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- B** Specifically, the rule changes will create another layer of bureaucracy in the school construction process, along with fees attached to all school design and construction document review, driving up the cost and length of time to construct schools.
- B** Some health depts. charge for inspections. School districts may have to reduce teaching staff in order to pay for this.
- B** There should be no charge for inspections.
- B** On a general note, I would like to emphasize our concern related to changes that imply a financial impact to school districts. As you are aware, every additional dollar spent on facilities is one that is withheld from addressing classroom activities in support of our core mission to improve academic achievement for students. Certainly, we believe in providing safe and healthy environments for students and staff. However, we are struggling to accomplish our mission and current requirements at the present time. We simply need state funding to follow any new rules that have a cost attached to their implementation. I know this is a tired old mantra related to "unfunded mandates," but it is a pragmatic reality for us in the school business.
- B** In my opinion unless there is funding by the State; examples like requiring plumbing profiles, annual inspections of playground equipment, mold remediation plans should be recommendations and not mandates.
- B** One school district estimates 6800 hours to comply with these regulations. AT \$150/ hr for LHO, this will reduce teachers in the classroom. Where we have estimated 6800 hours, that is for the draft rules as they currently stand. As the intent is better clarified, that may be lessened. Given the requirement to inspect each facility at least annually for compliance "with these rules" [pg. 22 4 (a)], our understanding is that a lot of things that were right when built would need to be reinspected each year. If it were made clear that the inspection does not apply to section 2, we would be able to reduce our estimate significantly.
- B** WAMOA said the language should be reconsidered; it cannot support one more unfunded mandate.
- B** Some of these rule changes are worthy goals but how we get there is another story; do a fiscal analysis sooner rather than later.
- B** The need for fiscal information as soon as possible is reiterated.
- B** Two issues: individual cost for the work; potential cost of delay.
- B** Need fiscal impact and project impact, and also a functional impact for its influence on operations.
- B** I heard the comment there would be a cost to benefit analysis done on the plan. It would be good if when this occurs that the benefit measurement is measurable and not something subjective or an obvious attempt to make it look like a zero budget impact regulation.
- B** The above comment leads me to speculate that the implementation of these new rules would be very costly and of course another unfunded mandate. The continuous stream of unfunded rules and requirements are an extreme hardship for smaller school districts.
- B** While the Coalitions have specific concerns regarding a number of the Proposed Rules, the Coalitions are extremely concerned about the fiscal impacts of the Proposed Rules on the school districts. As discussed below, before any meaningful review can be performed, the Department of Health must prepare a fiscal impact analysis based on the Proposed Rules. This analysis should consider the impacts of the Proposal on the State, local health departments, and individual school districts. In addition, the Department should prepare a project impact analysis and an operational impact analysis in order to assess whether the requirements are even feasible.
- B** The Proposed Rules must consider school district funding limitations.

As you know, school districts are required by state law to provide educational services to families residing within the districts' boundaries. Despite this mandate, funding for school construction continues to be problematic for school districts statewide, particularly for school districts in our region --- many of whom have recently faced or continue to face significant growth. On the operating side, state funding of K-12 continues to decline as a portion of the overall State operating budget: K-12's portion of the budget was 47 % in 1995-97, but declined to 42 % in the 2005-07 Operating Budget. Nonetheless, as public trustees, school districts have the duty to spend public funds appropriately and to maximize the funds that have been allocated for educational purposes.

In this context, school districts must carefully analyze the Proposed Rules in terms of relevance, authority, efficiency, and

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expertise. Coalition members recognize our duty to ensure safe and healthy conditions for the students and district staff. However, various aspects of the Proposed Rules will require unnecessary expenditures of funds from school district operating and capital budgets. For example, some expenditures require health department reviews that duplicate the reviews required by other qualified agencies and mandate reviews by the Local Health Officer ("LHO") in areas where he or she may not possess any expertise. Under Proposed Rule 246-366-220, school districts must obtain the LHO's approval of school construction plans and specifications. This includes the review of ventilation systems. These same systems are designed by qualified and licensed architects and engineers, reviewed and approved by local building officials who possesses unique qualifications to review such systems, and regulated by relevant provisions of the International Building Code ("IBC"), as adopted pursuant to Chapter 19.27 RCW, and the Washington State Energy Code (Chapter 19.27A RCW). In addition, under State law, school districts must also have these same systems reviewed by independent, outside commissioning agents. Paying for a fourth review by LHOs, who in many cases have no technical training relating to ventilation systems, seems neither appropriate nor cost-effective.

- B** Notably, the Proposed Rules do not include a fiscal impact analysis. However, based on preliminary review by school districts and our consultants, the Proposed Rules could add significant project-specific and operational costs. Using a new 50,000 square foot elementary school as the basis, district consultants have determined the following cost impacts resulting from the proposed changes to the Rules:

Design/Study/Consulting:	\$295,200
Construction:	\$892,700
Review/Approval Process:	\$111,150
Total Additional Project Costs:	\$1,296,050

Additional Annual Operations Costs:	\$58,000
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Please note that these costs are in addition to the costs normally budgeted for such an elementary school project. Also note that these cost projections assume no delays resulting from the separate LHO review process. For example, school construction projects generally commence in the spring in order to meet critical school opening dates. If the LHO review were to delay the start of the project by even a few weeks, it could delay construction for a full year. With construction inflation costs currently around 7% per year, a \$19 million elementary school project would cost an additional \$1.33 million. These delay costs do not consider the operational and educational costs that a school district would incur if a school was not opened on time. The BOH should consider these significant impacts.

- B** At a minimum, the Proposed Rules must recognize that voters have already approved funding for specific school construction projects. For these projects, the increased capital costs associated with implementing the Proposed Rules were not considered in the cost projections and thus, have not been funded by the voters. Therefore, the unforeseen increase in project costs could jeopardize these voter-approved projects and mean that districts could not deliver the schools they discussed in their bond presentations to the voters. Similarly, some districts are using limited levy funds to complete projects. We suggest that the Proposed Rules exempt previously funded projects from application of Section 2 ("School Facility Development") of the Proposed Rules.
- B** The alarmist attitude of "there is no money" is unfounded as districts are infamous for finding money to deny claims, increase salaries for the district office or fund other pet projects when schools are experiencing major IEQ issues.
- B** The majority of these proposals are an exercise in unfunded mandated redundancies. Contrary to popular belief school districts are usually in a state of financial stress just because of such mandates, it is amazing what we do accomplish with the limited funds afforded to us. For example, we spent over \$20,000 dollars about 9 months ago because we wanted to be proactive in testing all of our fixtures and potable water systems for lead, corrosivity and turbidity. Now, we find out we might have to budget that every three years. The same department that does the testing, changes fixtures all with lead free brass and fixtures, so why would testing need to be so often when we know our potable water system better than anyone, especially when our concerns are identical with our parents. We do not take risks, we do not take chances.
- B** It is extremely expensive to alter humidity in new buildings, and would be prohibitively so in existing construction. This reference should be deleted unless specific monies to address this 'problem' are allocated for all schools.
- B** Fiscal analysis is very much needed. The new rules put a huge financial burden on schools already struggling financially. Financial data from OSPI needs to be consulted to have a clear picture on how much of the total school budget is dedicated to operations and maintenance. These new rules look like another unfounded mandate that will put excessive burden on schools. Some large school districts estimate that thousands of hours will be needed to merely complete yearly facility inspections, not to mention compliance with the new regulations and fees charged for the visits of Local

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- Health Officials (LHO). Not only the direct cost needs to be considered, but also the significant cost of delays caused by the review and approval process for new construction. Where will this money come from? Will districts need to reduce staff?
- B** Some local health departments are charging a fee for school inspections. Why should schools pay an agency to do a job that the legislature mandates should be done?
- B** Example of excessive financial/time burden: plumbing profile for all buildings (section 1)
- B** The requirements for "School Facility Development" and the ongoing involvement of the LHO will significantly increase the cost of and time of development and construction. Delay is and excessive cost impact to school districts, especially given the time frames for construction (school year).
- B** School maintenance departments throughout the state continue to struggle due to declining budgets. Recently over one hundred thirty school districts applied for state assistance through the Small School Emergency Repair Grant Program that the state legislature initiated last year. Due to limited availability of funding, only twenty six school districts actually were provided funding for their repairs. Out of the twenty six districts selected, twenty four were districts with less than two thousand students. These were districts falling on hard times with budget shortages that require extra funding to repair roofs that were leaking, HVAC systems that were over forty years old, asbestos abatement, lighting replacements, mold and mildew. If the proposed rules are adopted and these new mandates imposed upon school facilities, compliance will require unnecessary expenditures of funds from school districts maintenance and operation budgets that could otherwise be spent on making the very repairs that the rules are proposing.
- B** To date, there has not been a fiscal analysis on the proposed rule changes and how they will affect school districts budgets. We believe strongly that such fiscal analysis, when it does take place, must take into account the hidden and often overlooked costs associated with increased maintenance and other financial burdens proposed on school districts when these types of rules are mandated.
- B** Another unfunded mandate.
- B** There were several comments that these rules are yet another un-funded mandate. However, it should be clear to everyone that child safety and maintenance of schools are already mandated. Parents are required by law to send their children to these public buildings and they likely assume that the highest level of safety is maintained. Therefore, the schools should always be kept clean and in good repair. Student work areas should at least meet the minimum safety requirements of adult work place safety. In our community, there appears to be very little shortage of building funds for new schools, with plans for the construction of 4 new multimillion-dollar high schools now in the works. Despite this funding for new schools, schools without operational funding cut back on maintenance. School administrators with limited budgets cannot always be trusted to keep schools from sliding into disrepair. For example, it is now common that floors are not cleaned daily in classrooms or important repairs are put off, even when problems are pointed out to administration during our inspections.
- B** Thank you for the opportunity to respond to the proposed changes to the WAC. The cost implications involved with many of the changes will have a definite negative impact on our school. We are a small rural school with our own water & sewer system. We currently are required to test for lead periodically in our system. Those tests results have been fine. The new requirements will affect us as we have sinks w/drinking fountains & separate faucets in each elementary room. It is my understanding both water supplies will need to be tested. The lab we use charges \$25 per sample (10% less if 10 or more are turned in at the same time). Where do you feel funds for these expenses will be coming from? Teaching & classroom supplies needed to educate children (our main priority) are only increasing in cost. Please give consideration to additional expenses that have no additional revenues tied to them.
- B** The plan review & pre-opening inspection I'm sure will not be done for free by the LHO. It sounds like there is a duplicate of the "required annual inspection" possibly both for playgrounds & for buildings which will also be charged for.
- B** Moreover, since LHOs will not be funded to perform the newly required annual Health and Safety inspections this work will of necessity be accomplished on a fee for service basis with the school district paying. In some areas this fee for service has been \$149 per hour. My quick math, based on the estimated time to conduct an inspection discussed at a recent workshop, predicts a new annual inspection cost to our district of between \$22,000 and \$36,000.
- B** My Third and final idea is funding. I suggest that the state Health Department, Regional Health Departments and the Local Health Departments across the state, lobby our Legislators to establish an adequate emergency repair fund for public school districts. This fund could be in the form of grants or interest free loans. I know that we have had some grant money in the last few years become available however it took a lot of paperwork and time to apply for the grants and many School districts did not qualify for the grants. If there was a fund or a way to get emergency state funding when an environmental or health issue arises, without all of the red tape, we as maintenance personnel could respond much

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faster and effectively to eliminate these problems.

We all are working toward providing the safest environment for the students and staff we serve, however with the rising cost of fuel, power and building materials there is no money left to work with. We need funding from the State Legislator's to keep up with the rising costs of operations. This burden has to stop being placed on the local school district's and their taxpayer's.

- B** The Informal Draft is an extensive effort to improve health and safety, for which you are to be commended. Because of the extent of the changes proposed, the impact on school district projects, finances and operations could be very significant, especially for small school districts. As you know, the financial and operational strains on school districts are already at a high level. School districts must carefully guard the funding that goes toward our primary objective, educating students, since we are limited by state law in how much income we can raise and from whom.
- B** No impact study has yet been done to quantify the resources needed to implement the changes. We encourage you to proceed quickly on a cost, project and operational impact review. Without that kind of study and a discussion or proposal on how to work together to find the resources needed for implementation, it is difficult to comment on many of these changes except to point out where there will be an impact.
- B** Small private schools housed in residential, church and multi-use building could have major difficulties and excessive expenses meeting provisions of the Draft Revised WAC 246-366.
- B** We have concerns how school districts and local health jurisdictions will obtain funding for some of the new requirements. We all should keep in mind the funding capacity of public schools vs. private schools and the potential impact this will have on the implementation of the new school rules for them. At Thurston County we fortunately have a fee funded program but what will other health departments have as a funding source if they are required to inspect schools annually?
- C** What happens if school districts are unable to comply with your rules due to the increased costs?
- C** Why were proposals 26 (Rule Implementation and Compliance) and 29 (Role of DOH in LHJ implementation rules for schools be established) not in rule?
- C** If you rely on local decisions, there is no teeth for anything to get done.
- C** Local control will never work.
- C** This is policy with no compliance and will not work.
- C** A standardized inspection form should be developed.
- C** What is required and what is advisory? Leaves room for opinions which causes problems (the rule should not include anything which is an opinion)
- C** Need to reduce the number of agencies associated with inspections of schools. Coordinate more with OSPI.
- C** Need enforceable rules, must have consequences such as closing off part of a school (no occupancy should occur in an area of the building where there is a problem).
- C** Should have a third party enforcing the drinking water requirements, not the schools.
- C** Local officials need to adopt local codes in order for enforcement to work.
- C** There is still no consequences, no one responsible if the rule is not followed.
- C** If there isn't going to be any enforcement why even try and include it in the rule?
- C** Supports schools to do self inspections or at least QA on some percent of them.
- C** In order for enforcement to work, need to tie it back to funding, i.e., you will lose funding if you don't keep the school healthy.
- C** No one is in charge. No one is responsible.
- C** Typically there is a lack of response from schools
- C** Local control doesn't work. The draft rule does not address enforcement

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- C** Enforcement and compliance needs to be included
- C** Local control won't work
- C** Implementation / enforcement needs to be included
- C** Accountability and Responsibility issues.
- C** These last sections on responsibilities need some work to make one person the top authority of responsibility when all others fail, who is responsible for what needs to be crystal clear and therefore eliminating scenario of passing the buck between agencies as was my personal experience and many others as they have related them to me. It must stop somewhere. How about a health czar (ha) or ombudsman?
- C** The present draft of the rules is unacceptable. There are too few standards, no state body or official that is responsible for enforcement, and no consequences for failing to meet any standards that are included. We need complete rules that have the specificity and enforceability to ensure that our schools should be safe, healthy places for our children and teachers to work. These rules must be strengthened. (Received from 82 persons)
- C** We need consistent standards, someone or agency that is responsible and consequences for violations.
- C** We would like to have more information on the enforcement and penalty provisions, which are not included in this draft.
- C** How has the enforceability of these rules been changed from the current rules? As DOH has indicated that it is not clear on the ability of the agency to take enforcement actions under the current rules, what is being done to remedy this situation before the new rules come into effect?
- C** When a teacher or child is damaged by mold in a school district with a defective mold response plan, what recourse do they have in a court of law? The court will read your WAC code, see that statutory authority was given to the local school (or their paid consultant (i.e. other "entity")), to inspect for mold and respond to it using their own perspectives.
- C** There was a comment that the rule did not contain enough "teeth" or enforcement requirements. At Snohomish Health District we have recently revised our school inspection program. Our program includes the use of Environmental Health Specialists who provide health and safety inspections to approximately 200 public schools and 75 private schools, which includes about 108,000 students. These biennial inspections are used to check if the minimum environmental standards are met in schools, such as lighting, sanitation, playground safety, chemistry lab safety, shop safety and ventilation. During our school inspections, we find the majority of the classrooms to be in good condition, but have also found examples of improper lighting, lack of fresh air in classrooms, very hot classrooms, safety equipment missing or in disrepair, poor food storage, rodents, dangerous chemicals improperly stored, playground equipment poorly constructed or not maintained, dirty rooms, drinking fountains not working, tap water so yellow students would not wash their hands in it, signs to mitigate elevated lead in drinking water missing, bathrooms without water, bathrooms locked to keep students out, power tools being used in dark conditions (less than 10 fc) , power tools being used in crowded conditions, gas leaks, and animals of all types kept in classrooms without proper sanitation. While some school districts have made changes to the problems pointed out in our inspections, others have ignored the inspection reports and have not replied to any of the reports. Therefore, this regulation should contain some of the enforcement components found in other Environmental Health regulations, such as the Water Recreation Facilities Regulations, WAC 246-260-211. Additional language could be added that would include enforcement tools such as orders and civil penalties for continued violations.
- C** Much has been made about this documents "lack of teeth" or enforcement power. I for one do not believe that more enforcement power is necessary. This redraft must attempt to build bridges and relationships that will be the basis of truly moving forward on important issues of health and safety. Enforcement for egregious issues has always been in the LHO's power. It might require the full involvement of the LHJ's Director of Health (the real LHO) but this is only a sensible reality check to ensure that the issue is truly egregious and should be handled with drastic actions such as closing a facility.
- C** Before risk managers and facilities administrators convince the SBOH that WA can't afford to enforce clean, dry, mold-free schools, speak to those whose lives have been ruined by these places. Ask the victims how these same administrators and risk managers responded to their concerns----did they permit leaks to persist year after year? Did they use "testing" to say nothing is wrong? Although the facilities manager from Cheney who posted a comment may work in an environment that fosters openness and care, ask the many employees and parents in Highline or Seattle schools who reported leaks or mold: they will describe the response of delaying, denial, covering up, discrediting, and harassing the whistleblowers in order to deny liability. While these school facilities poison the staff and students, the managers and WASBO members who downplay the problem calculate high impact against low frequency. Please make it a priority to protect children and staff from this type of bullying. Implement rules with teeth and take the money out of

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- OSPI's budget. It is wrong to allow people to get sick because we "can't afford" to keep them safe in school.
- C** When a school building is permitted to leak year after year, molds (like stachybotrus, rhizopus, epicoccum, and aspergillus) grow on damp cellulose, carpet, dust, and wallboard. These molds are especially problematic indoors because the lack of moving air amplifies the amount of toxin present in the contained space.
- School district leaders are notoriously poor about maintaining facilities; when faced with liability due to illnesses like fungal rhinitis, fungal colonization, and autoimmune disorders precipitated by toxigenic fungal infections, these districts will do anything to avoid liability: specious testing that is used improperly to say there is no problem, prevarication by PR departments, and the claim that teachers or parents are troublemakers constitutes their response plan.
- One need only to look at WASBO's stated mission of reducing liability, its members' claim that indoor air quality problems are "usually mental," and their record of fighting enforceable rules in our public buildings to see that the fox guards the henhouse of public health in schools.
- These moldy structures typically affect atopic and immune-compromised individuals over time---as toxicologists say, "the dose makes the poison." When 20% of the building's occupants report ongoing health concerns that diminish when away, EPA calls it a "sick building" while school administrators call it hysteria. Not everyone will get sick; the districts and their insurance companies use this to balance high impact against low frequency.
- Many lives have been ruined by moldy school buildings in which contaminants fester and build up, slowly poisoning staff and children.
- Since last May, more than 50 sick teachers and 1 principal have contacted me looking for help because their schools were making them ill. These people are terrified for their health, their students' health, and the mean-spirited and dismissive way the district leaders usually handle the problem.
- A roof should not leak; a school building with stains on its walls and ceilings already has fungal growth in it. If Washington can afford a \$61/pupil WASL, and if Washington school districts can afford to take disabled teachers to court to overturn their L&I awards in order to escape liability, surely it can afford to create an enforcement mechanism in which the fox doesn't guard the henhouse.
- C** In January 2005, WASBO held a meeting in which Lisa Vivian, co-owner of a self-insurance-for schools company, outlined the strategy for overturning the L&I awards of people who have been injured by air contaminants. Her comment: "Most IAQ claims are mental. Conduct surveillance when necessary." This un-scientific attempt to discredit people who are made ill is unspeakably callous and ethically corrupt. How much money will an insurance company spend to discredit an injured worker by calling her lung damage "mental"? More, probably, than it would've taken to keep the roof from leaking for 22 years, before and after "mold remediations."
- I have learned a lot about the way mold concerns are treated in our schools.
- Six years ago I worked at a leaky, 50's-era school near the airport. I met the woman who's now my wife there. This was a needy community and the staff had an extremely strong devotion to those children.
- Buckets lined the hallways and many classrooms to collect rainwater. Even though the district officials told us there was no dangerous mold in the school, like what had been discovered at two other district elementary schools, our own custodians warned us that there was lots of mold growing above the ceiling and between the walls.
- Indeed, coughing children and staff just got used to the problems and accepted them, even though one teacher had a seizure that year. Another developed a brain tumor. Staff rotated in and out with respiratory symptoms, children's coughs and headaches were routine there.
- The school district brought in some large filters and explained that everything was safe---ironically, the meeting where they told us this was held during a rainy afternoon and a bucket just outside the room was collecting drips in the hallway.
- My final year there the ceiling collapsed on the last day of school. Even after spending the summer repairing it, they didn't close all the leaks: some of the buckets were gone the next year, but many were back. And so were the ongoing complaints of respiratory problems. The district ran a bond and proclaimed that poor air quality in the buildings was one reason to vote yes.

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I moved to another district, but my wife stayed on at her school. Hers was one where mold had actually been remediated in 1998 when White Center Heights was closed because of toxic mold.

Toxic mold---those were the district's own words. It had been found in her building, and workers in HAZMAT suits spent the end of the summer cleaning it out.

Despite this work, her school continued to leak into more than a dozen buckets, and staff with the worst respiratory symptoms eventually just transferred away. The building had stains over most of its ceiling, air exchangers that weren't regularly maintained, and visible mold grew on the ceilings in the staff bathroom, window ledges, and places where water had saturated the acoustical tiles. Instead of the floor-varnishy, pencil-lead, sloppy joe smell we seem to recognize as the smells of school, this building had the smell of a dank basement. In areas of the building you could see slimy black mold growing around water-damaged ceiling and wall materials. The back of bookcase sprouted whiskers of mold, and the 30 year old carpet in that room had a nearly constant wet-spot where water cascaded down a wall and was trapped under furniture.

Eventually she succumbed to what we believed was a severe flu, but which turned out to be a very serious systemic fungal infection. She was the most senior staff member there, and had watched numerous colleagues transfer away convinced the building was making them sick.

When she notified the district she was concerned about her own, her colleagues', and her students' health, she was met with this line from a district facilities manager named Mr. Eshpeter, a man with no training in mycology beyond his HS diploma: "I'll tell ya right now, it's impossible for there to be mold here." The superintendent of that district would ignore every question, letter, phone call, and direct request for answers for the next 5 months.

That district would avoid initiating a health study even though 80% of its staff were reporting varying degrees of the same symptoms. Parent pressure resulted in the Health Department doing a walk-through evaluation a couple of months later. Mr. Hardin came through with a moisture meter and his nose to describe the problems as minimal----no scientific study was done. Rather, he emailed a cut-and-paste report like the ones he had issued to other schools where staff and parents had complained about mold.

In May of 2005, I presented a New Business Item at the Washington Education Association's rep assembly. I proposed that WEA take a closer look at how it is addressing indoor air quality concerns for the educators, custodians, clerical staff, and students. It was a simple proposal that only called for some reckoning and study.

What surprised me and the 1100 delegates were the number of sick building stories people went to the mics to tell: at least a dozen WEA members from around the state, sometimes tearfully, described the way their district spokespeople and facilities managers told them their illnesses were not real, or were attributable to hysteria, to some other source, such as their homes, or that they should simply leave. As a result of this new business item, I began researching these IAQ concerns and was dismayed to find out that there is a playbook for denying these problems: tell the sick teacher or the parents of sick kids they are crazy; paint over the mold; leverage high impact against low-frequency and bewilder the people with graphs and data they can't understand. The sickest people will leave because their respiratory problems, their joint pain, their constant vertigo, their bloody noses, their weak immune systems are simply unbearable. They cannot work.

If their L&I claim is awarded, like my wife's was, they can expect to be harassed by school district officials who lie about the problems, watch their houses, go through their garbage and recycling, and follow them around. In court---yes, they SUED us to overturn her L&I award---the people opposed to enforceable rules will stage courtroom stunts like pretending not to have seen evidence, or inserting questions that imply mental illnesses for which there are no records.

Notice that all the groups weighing in against these rules are out to protect bureaucracies. The money is already in the system: \$61 per WASL isn't helpful to children in buildings with rat infestations. Well-paid PR spokespeople who spin the problems without having any background, are not necessary for the teaching of children. Use that money instead to repair roofs and plumbing and provide safe, healthy schools. Until these liability-deniers and liars-for-hire prove their trustworthiness, the only solution is ENFORCEABLE RULES!

- C** I have a few general questions that I was unable to find the answer to in the draft rules. Who has enforcement authority for compliance with the rules? It appears to be local health officials (LHO's), but the rule references others, too. What action can be taken by the LHO's other than a recommendation to comply. I see nothing which makes it unlawful for a school to not comply. Why have rules if no one has any real enforcement authority and the school is not compelled to

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comply. I also am curious as to whether these rules would apply to commercial applicators or just to school staff who are making applications to school property. Maybe I missed it but I did not see anything in the draft rule that would clarify that issue.

- C** On behalf of the 80,000 members of the Washington Education Association, please accept the following as WEA's comments to the Department of Health's Informal Draft for Public Review and Comment of proposed changes to WAC Chapter 246-366, relating to health and safety in schools.

WEA is encouraged to see that the public health community is beginning to recognize that indoor environmental quality is an important and pressing issue facing the students and staff in Washington's schools, and that changes to the thirty five year old regulations found in WAC Chapter 246-366 are long overdue.

For our part, the WEA and its members are committed to working towards the day when all students and staff in the public schools of Washington can be confident that the facilities in which they work and learn are safe and healthy environments. To this end, the WEA membership, through its representative elected body, the Representative Council, has recently voted to begin a dollar per member per month special assessment to support our efforts in this area. It is our hope that as we move forward, we can engage the respective state, local and district authorities in a cooperative effort to secure safe and healthful schools, rather than engage in contentious or litigious efforts to achieve those results.

As to the proposed changes, we believe them to be a good start. However, we remain concerned that they do not go far enough to ensure a safe learning and working environment. In their current form, the current proposed regulations leave far too much discretion as to whether, and to what extent, they will be enforced. To date, by and large our experience has been that many school district employers are either unwilling or unable to maintain safe and healthful school buildings. Whether due to a legitimate lack of available resources, ignorance of the problem or of how to address it, or simple indifference the fact remains that many school facilities fall far short of the healthful environment necessary for students and staff to flourish. Consequently, legitimate oversight and enforcement of any proposed regulations should be considered as a bare minimum when considering the proposals as a whole.

Consequently, we strongly object to the proposed changes that would allow school districts to be made primarily responsible for inspecting themselves and ensuring compliance with the regulations. Similarly, the proposal to allow waivers from the requirements upon a showing of a purported undue burden upon districts is also unacceptable. Such provisions would do no more than put the fox in charge of the henhouse. Washington's students and educators deserve better, and we are committed to seeing that they receive it.

Consider for a moment if the safety issue presented was exposed electrical circuits, sewage contamination of drinking water, or the like, whether any debate would exist with respect to the propriety of such proposals. Clearly there would be none. Neither should there be here.

In closing, we are mindful of the financial pressures facing our public schools and agencies, and of the need for careful prioritization of available resources and efforts. However, it seems self-evident that safe and healthful school buildings must be considered to be an irreducible minimum if the children who spend their days in those buildings are to flourish and excel.

- D** Thank you for the opportunity to provide comment. Skimming through the rule changes it is apparent that these represent yet another unfunded mandate that will effect our ability to allocate funds for Maintenance of our public schools. I recognize that many of these rules are administrative in nature and may not have a product or require the purchase of an item but they do take valuable manpower away from an already overburdened work force. In some cases the rule changes add another level of correspondence that requires notification, communication, etc. for the school administrators to find time to meet the requirements.
- D** **SDRC Proposal 8A; The term "remodel" needs more clarification. Commissioning should be limited to Major renovations and new construction.
- D** Within the areas I am most familiar with (temperature control, ventilation, background noise levels, lighting levels); I am generally satisfied with the changes being proposed. From my perspective, school districts have a responsibility to provide some reasonable level of indoor environmental quality for students and staff. While I am certainly sensitive to the additional load that can be imposed on school districts by un-funded mandates, I simply do not believe it is fair or even sensible to expect a teacher and students to function effectively in an environment that is too cold, too hot, poorly ventilated, too noisy or under illuminated. Without some reasonable, measurable and enforceable standards, we have no means to verify that our schools are providing the most appropriate environments for learning.

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- D As far as for the purchase of property and for new construction or a major remodel, I would concur that most of the proposals should be met during design and construction where possible, without undue burden. I feel that is the time for DOH to be involved and to take the lead in having safe and comfortable buildings constructed. DOH should however remain doing what they currently do as well as responding on an as needed basis.
- D Schools that receive state funding are already required to perform commissioning on the installation of mechanical equipment to ensure that the equipment is properly installed. State funding for the commissioning is included in the project budget. Requiring commissioning for schools which do not receive state funding is an unfunded mandate which does not impact health and safety.
- D I think that a "common sense approach" is the best way to handle all of the concerns.
- D I would like to thank you for the opportunity to comment and lend a positive direction towards a review process that I believe should have a common sense approach with these informal rule revisions, and keeping in mind the health & safety of all occupants within Washington State Schools. I believe comments & testimony should be weighted throughout the state and not let individual / isolated incidents move emotions and perceptions that all schools are experiencing the same circumstances. I believe there are the many of schools throughout Washington State that have exceptional facilities towards health & Safety of all occupants that enter their front doors.
- D The draft is well intentioned but needs much more work.
- D The Washington Sustainable Schools Planning Workbook for High Performance School Facilities is a much better document for improving the learning environment in the schools. The workbook is modeled after the Collaboration for High Performance Schools Best Practices Manual developed by a collaboration of Government Agencies, Utilities, Non-Profits and other stakeholders in the State of California. The Washington Workbook for Sustainable Schools is a balanced well researched document that sets a higher standard than the California document while still looking at all the factors that affect the learning environment and recognizes that tradeoffs need to be made to achieve the optimum learning environment. There is no one size fits all answer but rather recognizes that each situation has its own unique environmental and site specific conditions that need to be addressed in a balanced way to achieve the best potential solution. I would highly recommend reading the workbook and the Washington High Performance School Buildings: "Report to the Legislature" from the Washington State Board of Higher Education and the Office of the Superintendent of Public Instruction. You can find them at the following: www.k12.wa.us/SchFacilities/SustainableSchools.aspx
- D As a manufacturer of many of the temporary classroom buildings used in the State of Washington we support improving the learning environment and would readily incorporate upgrades to the buildings as technology evolves and the changes can be cost justified through a cost benefit evaluation over the projected life of the building. Schools have limited resources and our goal is to work with them to provide the best learning environment possible given the state of current technology and the budgets they have to work with.
- D I've been following the movement to improve the learning environment for years and must say that the Washington Sustainable Schools Workbook is by far the best approach to improving classrooms in the future; it is a balanced approach that is unbiased in how it promotes making the improvements. No one special interest controlled the final recommendations at the expense of others.
- D This is an emotional issue and its bigger than a rule making process.
- D An appeals process is needed.
- D If you have too specific language in the rule, this boxes you in so try and define the performance standard you want.
- D When you make a reference to a standard in the rule, what happens if that standard goes away, then what?
- D What are the essential minimum requirements of the rule (a cost benefit analysis will occur as part of the rule process).
- D The draft language is vague pertaining to cleanable surfaces and odor free. This leaves open room for interpretation which will cause problems.
- D Building commissioning – will this include portables
- D Consistency would improve if an inspection form was developed.
- D Does Ecology have clear guidelines to deal with contaminated soils?
- D Why is rule duplicative with other rules (examples given include ASHRAE and State Building Code)? Recommends

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- having someone review the draft regulation to identify these duplications and remove them.
- D** Concerned with vague language, i.e., cleanable surfaces, does this mean no carpets?
 - D** The SBOH would not enact a law that wouldn't be funded. We need a good rule to take care of our teachers and students.
 - D** More and earlier notification of public workshops
 - D** Process feels rushed – not genuine
 - D** Votes of SRDC not followed RE: Rule versus Guidance
 - D** This is bigger than a rule / There are policy issues that extend beyond technical standards and requirements, particularly around funding and enforcement.
 - D** Why do DOH personnel testify in court?
 - D** Schools sometimes let building to deteriorate
 - D** These draft regulation changes represent a step forward, but do need some polishing.
 - D** We at CEFPI know that school districts have limited resources to construct and maintain their buildings. Our approach is to support funded programs that identify quality standards for good school construction and to encourage enhancements through the use of incentives. We do not support unfunded regulations or solutions that are one size fits all.
 - D** We are concerned that the proposed rules regarding day lighting, acoustics, HVAC systems and thermal comfort, to name a few, are not in alignment with the Washington Sustainable Schools Protocol (WSSP). The Protocol was developed by school, community, advocacy and design professionals who spent hundreds of hours over the last three years researching and debating best practices for high performance buildings. The Protocol is referenced in the state statute requiring high performance schools.
 - D** We are concerned that the proposed rule is overly prescriptive in places and overly general in others. The strict requirements for day lighting, for example, will limit creative design solutions and do not allow latitude for local officials and design professionals to adapt design to existing conditions. On the other hand, can an LHO decide that carpeting does not allow for dust control and easy cleanability in conflict with a District's desire to improve acoustics?
 - D** The proposed rule should not list specific new design requirements such as day lighting, but should incorporate by reference the requirements of established protocols such as ASHRAE, the EPA, WSSP, etc. This will not only avoid conflicting requirements, but will facilitate periodic updates of health department regulations as various agencies and organizations update their documents.
 - D** All recommendations should be removed from the rule or should be specifically listed as recommendations. LHO opinions should not be allowed to overrule the design and furnishing decisions of the school district based upon recommendations.
 - D** We have a large interest in keeping our facilities warm, safe, dry and healthy. We appreciate your efforts to develop regulations that will assist us in identifying standards - and if the first step in the process were to create a list of best practices for districts use that would be much more helpful than these regulation changes. For instance - as you identify mold as an issue, please provide specific guidance on best practices for testing of mold in terms of strategies and timing. Referring to the New York City procedures isn't as helpful as it could be.
 - D** General comments: In some places, the rule is very general; in others very specific. The inconsistency is unhelpful. The rule should be science-based.
 - D** Would very much like a standardized inspection form if we do take this on--higher inter-rater reliability.
 - D** On page one, of great concern is the use of the words must instead of shall in this document (see SBOH testimony).
 - D** Also, constructability review in workgroup vote was strongly supported in Rule form, 13/7/1 and SRDC, though I suspected rewritten to water down, was still well supported, 4/6/4. Therefore, should be added to the Draft Rule. Also another recommendation from Workgroup to share review with Local Health Jurisdiction was strongly supported, 18/4/0 and seems to disappear in SRDC.

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- D** Throughout this process I have had grave concerns of the process. However the Workgroups of approximately 20 persons (well attended) discussed the issues (some extensively), addressed through give and take to compromise reasonable recommendations all (or most) could support. Many did not make it out of these workgroups to be referred to SRDC. When they met I am sure their process was similar as some did not make it out of committee (or in a different fashion). So to have those charged with writing their recommendation into law (draft) to change and omit has no process or place in this process. This can still be corrected as this is just the first draft as I am sure you will conclude.
- D** I had thought there would be some mention of machine and other safety issues in classroom technical programs, such as woodshops, etc; I only see noise and chemicals used in lab classes mentioned. Also off-site work-based learning placements aren't mentioned and I had thought there might be a reference to the work-based learning guide developed by OSPI. There are also many instances where schools actually build a house with students for fundraising or other reasons, where potential safety hazards exist. Another common situation that I have heard many express concerns over is the use of students in school kitchens and cafeterias. I don't see anything addressing these situations. Were these ever mentioned?
- D** I am greatly concerned that the draft rules proposed by your department will not protect our students, teachers, and school staff members from serious environmental health hazards in schools, including toxic mold, pesticides, contaminated water, poor indoor air quality, or persistent toxic chemicals. (Received from 82 persons)
- D** Require the purchase of building materials and products that do not result in persistent toxic pollution, such as non-vinyl flooring (Received from 82 persons).
- D** I am also worried that the process used to develop these rules has been inadequate. The citizen stakeholder committee that spent over a year providing the Department of Health with input on this issue should have a chance to review the public comments gathered in this process. In addition, important proposals from this committee that were omitted from this draft must be reconsidered and the comment period should be extended to three months so all school community members can have a chance to read and comment on the proposals. Our students, teachers, and school staff members deserve healthy, safe schools. Make these rules strong, enforceable, and enforced. (Received from 82 persons).
- D** The objectives of these rule changes are certainly commendable. There are some areas where I think they are overly vague and others where they are too prescriptive, but those are minor issues that I think we can work out as a committee. I would prefer to see it be a subgroup of our regular committee, and would be glad to participate in that. The big, big problem here is the funding which I think might be best to have every District take up with DOH and the Legislature directly.
- D** Can school districts implement more stringent requirements of these rules? For example, our District defines the action level for lead in drinking water at 10 ppb, versus the EPA standard of 20 ppb. Our IPM notification requirements are more stringent than the Department of Agriculture regulations.
- D** The proposed regulation changes would result in significantly increased annual fees for unnecessary site inspections, impact construction schedules, and increased administrative work hours for required documentation and record keeping.
- D** Specifically, the rule changes will duplicate existing regulations and codes currently in the IBC, WAC ASHRAE, and OSHA, to name a few.
- D** Specifically, the rule changes will prescribe mandatory architectural design standards which can overrule common sense design and furnishing decisions of the school district
- D** Specifically, the rule changes will contradict the Washington Sustainable Schools Protocol
- D** Specifically, the rule changes will not provide real benefits to health and safety and will waste significant amounts of tax dollars.
- D** We strongly urge the Washington State Department of Health not to adopt the proposed changes without addressing the {outstanding} issues and including significant participation of actual school district practitioners. Detailed below are specific items of concern from the draft document along with recommended changes.
- D** Avoid use of "recommended" – either require or don't comment.
- D** The Washington Department of Health should continue to serve in the advisory role to schools districts and work collaboratively with other regulatory agencies
- All proposed school design oversight should be removed from the draft
 - LHO should not be allowed to overrule school construction design decisions of the school district.

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- All rule changes that will result in unfunded costs and fees should be revised as recommendations or completely removed from the document.
- We strongly urge the Washington State Department of Health not to adopt the proposed changes without addressing the {outstanding} issues and including significant participation of actual school district practitioners.

- D** Some comments about the rule being convoluted. Who has what jurisdiction, LHJs, building dept, schools?
- D** Schools...we already have too many inspections.
- D** What about arsenic?
- D** Another general concern is that any rules should leave little for interpretation, especially if inspectors will be sent out to enforce them. Whether it is a school district employee or any state or local health official, the rules should be easily understood and interpreted to mean the same thing by all. Some of the current language in the draft seems vague enough to present confusion in this regard.
- D** We think it would be advisable to consider referencing already established school design protocols such as ASHRAE, EPA, IBC and the newly developed Washington Sustainable Schools rather than including specific design requirements in the new rules. Some of the proposed rules may not be aligned with these existing protocols.
- D** I would encourage direct reference to other regulations such as the Chemical Hygiene Law, Right-to-Know Law, and the School Health & Safety Handbook.
- D** Health and Safety needs to be a concern, I think for all of us in School Maintenance would agree that we want children to have the very best classrooms and schools to learn in however this document lacks consistent language, provides unfunded mandates, and to much power at the LHO level. Here are a few specific comments that I hope the committee will reconsider.
- D** Avoid "recommendations" because these are interpreted as requirements.
- D** These rules are the most sweeping changes he has ever seen with governance, fiscal, and policy issues – this belongs in the legislature; consequences are sweeping; have school directors been involved?
- D** Take time-out for rule-making process and have a third-party professional organization establish the need; this is a significant "unfunded mandate" that can't be taken lightly.
- D** There are a lot of good, worthy things in here; however, some items are under other regulatory agencies. Why is a whole new layer required? Statements that mold and IAQ are rampant are questioned. There is information contrary to this. Wants background info on recorded problems and how many problems there are and how many problems remain unaddressed. Districts take great pride in taking care of their districts and children.
- D** Over the past 10 years, the risk pool has been brought in instantly. It is getting consistent inspections. Inspections by LHO or others is not needed.
- D** One person has spent more than 40 hours trying to put thoughts into writing. And also expressed concern about having information on the enforcement and penalty provisions which have yet to be included in the draft.
- D** There are many areas in the plan which conflict with best practices and recommendations of OSPI, lighting design labs, and CEFPI in regards to school construction and design.
- D** I was an attendant of one of the presentations of the draft plan and heard the statement everything in plan was based on best science and later in the presentation heard the remark that "I" would not have hand dryers in any public school, it was obvious it was not a matter of best science but personal preference, having researched the area of hand dryers and paper towels there is absolutely no evidence one is better than the other. How much of the rest of the report is a matter of personal preference of one or more of the contributors.
- D** Thank you for allowing us the opportunity to comment. I would hope more time and planning would go into this regulation with the added comment that funding "must" accompany any new regulation originating from DOH.
- D** We acknowledge the importance of a safe and healthy environment for students, staff, parents and users of school facilities, however we have concerns surrounding the Informal Draft to the Proposed Rule for School Environmental Health & Safety as currently proposed. We believe the revisions to the Proposed Rule for School Environmental Health & Safety is vague in some areas, overly burdensome in other areas and will

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result in a further erosion of funding from the classroom with minimal benefits. Many of the proposed revisions are presently addressed in existing regulations and code requirements, including: Revised Code of Washington (RCWs), Washington Administrative Code (WAC), state and local building codes (IBC, IMC, IEC, etc.), Occupational Health and Safety Act (OSHA), Washington Industrial Safety and Health Act (WISHA), Environmental Protection Agency guidelines, and the Washington State Department of Health K-12 Health and Safety Guide last revised in 2003. In other areas the proposed revisions conflict with the existing laws, codes, regulations and/or guidelines cited above or other newly enacted requirements such as the Washington Sustainable Schools Protocol.

- D** As a general note, while the Coalitions appreciate the need for health standards, we believe that the adoption of specific standards through the Washington Administrative Code rule making process is inappropriate. Once adopted as a part of the WAC, the Rules will remain static and will not be responsive to local conditions or changing circumstances or technologies. The *Health and Safety Guide for K-12 Schools in Washington* (the "Guide") should continue to be used to delineate standards and practices that can be used to meet the school environmental health requirements contained in the regulations. Unlike the regulations, the Guide is a living document and recognizes differences in program needs as well as regional concerns.
- D** The Proposed Rules should consider and provide opportunities for school districts to manage the review and inspection process by using in-house or other professional staff who have been appropriately trained and certified to perform inspections. School district personnel and risk managers are often trained to provide many of the same services and functions that the health inspectors provide. Not only does this alternative enable school districts to ensure safe and healthy learning environments, it can also be used to manage effectively the costs and time allocated to the health inspections.
- D** In a number of sections, the Proposed Rules duplicate or conflict with other laws and regulations or reviews performed by other entities with more expertise.
- D** To avoid potential conflicts and to appropriately recognize relevant expertise, the BOH should avoid rulemaking in areas covered by existing statutes and regulations.
- D** In two subsections, the Proposed Rules attempt to incorporate legislative standards that the Legislature expressly declined to adopt in several recent legislative sessions. Proposed Rule 246-366-330, regarding mold prevention and remediation, is nearly identical to House Bill 2177, which was introduced, but not acted upon in the 2005 and 2006 Legislative Sessions. Similarly, Proposed Rule 246-366-350, regarding water quality monitoring for lead, follows many of the same provisions in Substitute Senate Bill 6271 (introduced in the 2004 Session) and Substitute Senate Bill 5029 (introduced in the 2005 Session and reintroduced in the 2006 Session). Notably, the Legislature declined to take action on either SSB 6271 or SSB 5029. The BOH should not usurp the Legislature's authority in these matters.
- D** The rules are too vague and simply will allow districts to continue to do nothing. The draft is school board, risk manager or administrator dream come true and may even be even less then the 1971 in terms of assigning responsibility and enforceability or consequences.
- D** What about portables? Some schools have more square footage in portables then traditional classrooms...it's amazing this was not considered or was it deliberately left out because portables are so often IEQ nightmares.
- D** You need to name the problems. If you want commissioning name what you want commissioned. As it is written you could be asking the school to commission a door when the HVAC system is probably the primary commissioning concern. Too vague and open to interpretation, no different then the infamous "sniff test" DOH has been doing to assist districts in their denial of a problem. Give us something with teeth, not something to protect school boards or a draft that disproportionately affects small school with one janitor or district in lower income communities.
- D** We need a State IEQ Ombudsman
- D** DOH has failed our schools and will fail us again if this draft is enacted.
- D** SBOH needs to see a draft written by another source or by those on the SRDC committee who are so outraged by what a few members of the DOH crafted and put out to the public...listen to the people.
- D** Why isn't OSPI involved with this process?
- D** Where is the data to support the changes, the new draft should include a piece on collecting data.
- D** The storm is coming and DOH better wake up, no longer will the masses of parents and school employees be silenced. If you can't handle the criticism now, fix the problem or find someone at DOH who will step up and provide the necessary

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leadership. The problems aren't going to improve if we continue with the unacceptable status quo.

- D** I work at EHS and have been seriously overexposed to fiberglass particulates. The school currently is under destruction/construction while 150 plus staff continue to try to educate 2200 young adults. I am unable to make it through a whole week without taking a sick day to recover from the particulates I breathe all work day long. It is an outrage that we are exposed to this contamination, and these new rules, while well intentioned, do not provide the clout that will force school districts to clean up their act.
- D** For several months many people from the SRDC committee donated THEIR time and EXPERTISE to give needed input to the DOH to help with developing and implementing codes regarding environmental / safety concerns in schools across the state of Washington. Sadly the DOH chose to completely alter the proposals. The proposals that were drafted during the SRDC meetings have been changed to the point they DO NOT benefit the staff or children who attend public schools across Washington. The question we should be asking is ... WHO IS BEING PROTECTED HERE? The most recent "revised edition of the SRDC proposals DOES NOT REFLECT the hard work that went into the ORIGINAL documents! It is troubling to see the DOH parade around the state to show folks what "THEY the DOH " have come up with. The revised proposals drawn up by the DOH FAIL to protect the children and teachers across Washington. Our children and teachers need RULES not guidelines to protect them from unsafe, unhealthy environments in our schools. The indoor air quality, the drinking water, the playground soils and equipment MUST be safe! Putting proposals into guidance WILL NOT accomplish this goal. On this web page there is a statement.....Washington State Department of Health Working for a Safer and Healthier Washington. If the DOH would go back to the ORIGINAL proposals and put them into RULE the above statement could be achieved. If not our children and teachers across this state will continue to be exposed to hazardous, unsafe conditions. The safety of our children and teachers should be paramount! I can only hope the SBOH agrees and DOES NOT allow the revised proposals to go forward.
- D** We already have an Environmental Health and Safety committee at each school, we already have a mold remediation response program in place, we already have an IAQ response program in place, we already have a weekly eyewash flushing program in place all with records, we already have an Integrated Pest management system in place. Is our local ESD and Health Department so much better than everyone else's that the rest of the state has been suffering in silence or have the rules always existed but not enforced elsewhere?
- D** Kids spend about 7 or 8 hours in schools everyday. Our schools take every safety precaution to create a safe environment for our children. Kids spend about 16 or 17 hours a day at home and 48 hours on the weekend. I am also aware that a lot of homes that are not that old have lead in their water fixtures, asbestos in their ceilings or attics, radon in their air, are full of fiberglass and somewhere mold growing unabated. Where is the concern for all the thousands of homes that have at least one of those problems? In my opinion (and I am sure others) Schools are much safer and environmentally friendly than the majority of homes.
- D** 246-366 General Comment While the goals stated in the preamble are admirable, we find fault with some of the consequences of these proposed regulations. We as a school district believe that we are taking excellent care of our students and staff. The regulations as written in many cases do not appear to have thought through the implications of the statements as made. These implications relate to both the breadth of area covered and the amounts of money needed to fulfill them. In the area of regulatory guidance, there are times when specificity is needed and times when open-ended wording needs to be applied to each situation. These proposed regulations in many cases hit the wrong nails at the wrong times. Much of the wording used is ill-defined and overly broad in implication as a result. This can result in confusion and result in substantial wastes of money.
- D** The regulations assume large increases in staffing at local health departments to administer the regulations and further increases at school districts to implement them. Further, the need for appropriate cost/benefit analyses seems to have been ignored. It cannot be said strongly enough that these types of regulations need to be researched thoroughly, written clearly, made forthright, and within the mandate of the agency as defined by the legislature. Anything less leads to ambiguity, unforeseen consequences, burdensome bureaucracy, and liabilities for pulling funding from other purposes. We believe, that in many instances, the new proposed regulations do not meet these tests.
- D** An item in a regulation is either enforceable or it should be left out. Any 'recommendations' should be removed from the document. We all have our wish lists.
- D** This is also a standard with its pretext the health and well-being of students. There should not be requirements under this standard as to office spaces which are under the general building codes and the state Department of Labor and Industries. It is impossible to provide every office with a window or skylight in a building without extraordinarily impacting the design and therefore expense of a more compact facility.

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- D** There also must be an exception for the renovation of historical buildings, where the requirements for maintaining the former character preclude the possibility of meeting the standard without extraordinary expense or violation of historical parameters.
- D** As any follower of school construction knows, “important features” for classrooms come and go. Is ‘daylighting’ another one of these fad items? This is unknown. We currently accept daylighting as an important consideration. We also accept that we may not be fully capable of implementing fully every “important consideration”. Design and budget processes require trade-offs in some circumstances. This area is already administered under the Washington Sustainable Schools Protocol and should not be at cross-purposes. This section is ill-considered and should be deleted.
- D** Regulations vs. Guidance. We are currently using the *Health and Safety Guide* as our reference tool for school inspections. It consists of requirements and regulations. Some of the sections containing recommendations – playgrounds for example – are requirements in the proposed rule. We would prefer that they stay as recommendations and feel there is a benefit to doing so. For example, since the CPSC guidelines and ASTM standards are most prudent practices for playgrounds, they have historically been used in litigation if there is a playground injury. This will not change whether or not they are included in the regulation. In addition, our experience with regulations is that if another document is cited, the particular version or year must also be cited. Then when the referenced document is updated, the rule becomes outdated. In the playground example, it is our understanding that CPSC is currently under revision. When the revision is complete, we will not be able to incorporate the changes into our plan reviews or inspections, even if the revised guidelines are less stringent than what is currently in place (e.g., an anticipated reduction in the dimensions of the slide exit zone).
- D** An objective third party professional group should assess the need for a new layer of mandates. It is questionable whether for instance indoor air quality (IAQ) and mold problems are rampant and neglected in schools. As everywhere, there may be a few bad players, but most schools take pride in solving problems and taking care of their employees and students. There is not enough background information on recorded problems and their solution or lack of solution; it appears that the changes were triggered mostly by personal testimonials.
- D** There is a lot of duplication of jurisdiction and redundancies with other regulations: WA Building Code, Integrated Pest Management, WA L&I. If the choice is to conscientiously duplicate or overlap with existing rules, there is the need to analyze the existing regulations and coordinate with them or at least paraphrase correctly. When agencies contradict each other or there are a lot of overlaps or gray areas an undue burden is placed on those who need to comply with the regulations.
- D** There is a lot of ambiguous wording that needs more clear definition: “excessive brightness and glare”, “easily clearable surfaces”, “pest-free building”, “pesticides”, “minor repair”, “frequently monitor”. For example what is an “instructional area”, does this include gyms, technical instruction areas, art rooms? Also, what “minimum environmental health and safety standards” (section 1) mean or how can the following sentence be interpreted: “School facilities must be designed to allow for control of dust and cleanability”?
- D** Do not include “suggestions”, “may” or “should” in rules. Include only *mandatory* rules. Avoid “recommendations” because they are often misinterpreted as requirements and open the door to claim that the work environment is sub par unless it conforms to everything that is written down. Suggestions, recommendations and references can be listed in an appendix or addendum.
- D** It is not clear whether we are talking safety or just want to create a certain environment.
- D** WAMOA recognizes and appreciates the need for health and safety standards. The current *Health and Safety Guide for K12 Schools in Washington* should continue to be the guide for delineating standards and practices to meet school environmental health and safety requirements.
- D** After reviewing these draft rules WAMOA must conclude the Department of Health is exceeding their administrative rulemaking authority. The proposed rules in this draft are among the most costly administrative rules affecting maintenance and operations departments that have been developed in recent years. WAMOA cannot support the rules as written and will not support any more unfunded mandates.
- D** The “Health and Safety Guide for K-12 Schools in Washington” was developed jointly by OSPI and the State DOH as a tool to be used by both the LHOs and schools in inspecting and assessing safety for schools. The authors of this Guide made a clear distinction between what should be “Recommended”(Guidance) and what should be “Required” (rule). Recommendations were based on “recognized standards of care”, such as the CPSC, ASTM, EPA. Required were backed by actual WAC or RCWs. By quoting the actual WAC, as it applied to elements within the schools (even if the WAC came from the L & I section); conflicting requirements from multiple governmental entities were eliminated (DOH requiring Circuit Breaker Boxes to be locked when L & I WAC specifically require them to be accessible). Many of the proposed new rules duplicate, but differ from, existing WAC’s from the section 296.800; and existing IBC and UBC codes

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that are used by local building authorities. I believe many of the proposed rule additions need to be removed (if already addressed by 296.800) and others need to be included in the Health and Safety Guide, if they represent "recognized standards of care" such as the CPSC and ASTM guidelines.

- D** This is where there has to be an OMBUDSMAN OR ATTORNEY GENERALS OFFICE STAFF PERON who will take complaints and work WITH the students and parents when they have issues.
- D** Add SRDC proposal 22A The training, qualifications and certification of school health and safety inspectors is to be addressed by DOH. Reasoning: Now this to me is a very scary thought. I have absolutely no confidence in the DOH and have watched them maneuver and wiggle out of most IAQ problems. I have lived with the consequences of 13 years of Tim Hardin's mishandling of problems and the DOH covering and thinking it was OK. They must be overseen by someone else and again an ombudsman position is important. This is another unfunded mandate, and we have always been told there are only 2 or 3 people qualified and handling the whole state. This is an area the DOH needs to be very strong. I just don't have confidence in the system anymore.
- D** Where did you put SRDC proposal 32 DOH Rule Implementation This should be passed out to every DOH employee.
- D** We are very concerned that these draft rules will not protect children, teachers, or school staff from the hazards posed by mold, lead, pesticides, persistent bioaccumulative toxins, or other environmental health hazards found in our schools. In order to be effective, these rules must be strong, enforceable, and enforced. The draft rules do not adequately meet any of these requirements.
- D** Overall, the rules do not include enough statewide standards, allow too many self-policing options for districts, require too many district-specific implementation plans without clear guidelines, and show no sign of being more enforceable or enforced than the rules they are to replace.
- D** The rules should require the purchase of building materials and products that do not result in persistent toxic pollution, such as non-vinyl flooring. Unfortunately, this aspect of school environmental health has been completely overlooked in these rules.
- D** Why don't the rules include restrictions on the use of materials that include persistent bioaccumulative toxins, such as dioxin-laden vinyl products or toxic flame retardants found in electronics or furniture?
- D** The citizen stakeholder committee that spent over a year providing the Department of Health with input on this issue should have a chance to review the public comments gathered in this process. In addition, important proposals from this committee that were omitted from this draft must be reconsidered and the comment period should be extended to three months so all school community members can have a chance to read and comment on the proposals.
- D** Why are the comments from this drafting process not going back to the SRDC for review?
- D** Why were sections that were voted to be included in rule not included in this draft? Why were sections that were voted evenly for rules and guidance not included in the draft?
- D** When will implementation guidelines for the rules be available, including information about assistance and/or review of district-specific plans for mold, lead, IPM, or communications?
- D** Schools should be the safest and healthiest places in our communities. That is what our children and teachers deserve, not headaches and asthma and years of battling to remove mold, stop pesticide spraying, or fix indoor air problems. These rules are the State Board of Health and DOH's opportunity to make sure that our schools are safe, that our teachers are healthy, and that our students are in the best learning environments possible. These rules should put the health of our school communities first, requiring the highest standards of health and safety protections, a strong focus on prevention, quick responses to concerns expressed by any staff or parent, central coordination and oversight by a state agency that is focused on school environmental health, and a commitment from the state to enforce every rule it produces. That is the least that our children, our teachers, and our communities deserve.
- D** Put ALL of the SRDC proposed rules into code vigorously and effectively.
- D** Stop misrepresenting SRDC votes to the SBOH and the public (e.g. the lead in drinking water vote was closer than the copper and cadmium votes). You told SRDC members that positive votes for rules would supersede guidance votes. You are now denying this.
- D** Stop telling the public that you made every effort to include the SRDC recommendations into your draft WAC codes. This is overtly disingenuous. You cannot achieve a functional public health system through spin control.
- D** You have ignored a UNANIMOUS vote of the SRDC committee to have a complaint and appeals process in the WAC Code, as a rule. Instead, YOU decided to adopt this as "guidance." When did a complaint and appeals process become "guidance"? I think you already realize that your draft codes do not have the words "enforce" or "enforcement" anywhere.

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- D** No one is buying into your "compliance and enforcement" piece. You should shelve it, and work on getting a functional set of codes to deal with hazards in schools.
- D** A separate code to deal with hazardous and dysfunctional individuals and agencies needs to be addressed later. This piece will require input from WEA, parents, the Attorney General, and the Governor. This piece is beyond your vision or capabilities to formulate by yourselves. I told you, Mark and Nancy, in our final SRDC meeting, that parents and teachers need a complaint and appeals system that can respond like the Department of Labor and Industries. Moreover, L/I needs to be given the NEW right to make unannounced inspections in schools, in response to health and safety complaints. State whistleblower protection needs to be extended to all school employees, because school employees are frequently intimidated and retaliated against, if they speak out about school environmental health hazards. The above solutions go against your failed vision of local decisions (influenced somewhat by state guidance), so I have very little confidence that you will accept anything I have to say to you.
- D** Some of your proposed draft WAC codes clearly violate federal and state law, by taking away rights of employees to be protected by the state Department of Labor and Industries, and by NIOSH. How can L/I or NIOSH respond to a mold problem, if a school district has a written mold response plan that says paint over the mold, and leave it in place. Or, a school district whose mold response plan states that mold behind a wall is not a health risk ("scientifically justified" by a paid consultant). Your draft WAC codes allow schools to formulate local plans without state oversight. The rights of affected individuals to appeal the inappropriateness of these mold response plans is not included.
- D** Think about the 14th Amendment: Equal Treatment for citizens. Think about RCW which states that: "all state employees.... shall enforce all rules adopted by the SBOH." Where in your draft WAC codes is this RCW mentioned? All other WAC Codes reference relevant RCWs. Your codes leave these statutory authority issues to the reader's imagination.
- D** Think about the federal Individuals with Disabilities Education Act (IDEA), which requires schools that receive federal funds to provide a healthy environment for disabled individuals. Do you view children with severe asthma, sickle cell disease, cancer, or AIDS, to be safe in schools where mold is painted over???
- D** You should deal with the egregious legal flaws in your codes NOW, rather than later.
- D** Perhaps you should put aside your aversion to public input, and create codes that actually protect individuals, rather than institutions. You may have parents and teachers calling for injunctions, if you do not work through the unintended consequences of your draft codes.
- D** Parents and teachers no longer trust the DOH to formulate functional WAC Codes. For this reason, we are writing an alternate set of WAC Codes to present to the SBOH. Our codes will provide point-by-point counterpoint to the defects in the current draft WAC Codes. An Internet BLOG is being set up, to ask Washington State teachers and parents to relate their horror stories to the SBOH, and to our Governor. National organizations and news media will soon see how Washington State has become a poster child for sick schools and dysfunctional government.
- D** Thank you for your work on this draft regulation for Primary and Secondary Schools (Chapter 246-366 WAC). After hearing some of the comments about the draft rule, I am compelled to address some of the statements before commenting on the draft. As an Environmental Health Specialist inspecting schools in Snohomish County, it is my hope that this discussion will create a better understanding as to our work and demonstrate why it is important to develop enforceable rules.
- D** Thank you for your time spent of these revisions but please take more time and make them realistic, logical & affordable.
- D** In general, I find the scope and tone of this draft unsettling and disappointing. Many elements will add significantly to the costs (in both time and money) associated with school facilities operation and construction, while real improvements to the health and safety of schools resulting directly from these changes are, in some cases, questionable. Almost all elements broaden the reach and influence of the DOH. Several references are made to existing legislation, but apparently establish the DOH as another agency with oversight capacity. By changing the language and thus the tenor of previous legislation from recommendation to requirement and directive, DOH has removed discretion and, in some instances, common sense from the equation.
- D** I concur with many of the comments made by other school districts and the Board of Directors of the Washington Chapter of the Council of Educational Facility Planners International. I believe the health and safety of our students, staff, and community members is a top priority by school systems. Many of the items in the draft rules, while maybe well intentioned, could be detrimental to that goal. Certainly districts would be directing resources away from other needs, many of them safety related, as well as canceling or reducing the scope of projects – or at best delaying them, projects that in many cases are needed to address existing safety and health concerns. I also agree the rules should incorporate by reference the requirements of established protocols, and not be subjective or general in nature. Will a LHO have the time, experience, or expertise to address many of these items? I believe many of them will not. Were local LHOs even

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consulted on these draft rules? Some of the negative comments by them indicate they were not. The following are comments I received from our engineering consultant regarding the draft rules.

- D** This is a well intentioned effort that calls for significant changes and improvements in our efforts to promote healthy school environments. Unfortunately, there are some shortcomings in the overall approach used to implement these changes. This revision to the WAC greatly expands the role of the Local Health Official (LHO) to conduct inspections at our schools. It also gives him a much larger role in approving new construction projects. This pre-construction approval authority seems to be a role that health departments have not traditionally been trained, staffed or funded to adequately perform.
- D** I worry about delays in construction project approval. For instance, under the new regulations LHOs will be required to approve the placement of new portables on school property, as well as the movement of older portables, even though our county Department of Community Development already has a process in place that more than adequately addresses this. The installation of portable classrooms on a campus is usually in response to an immediate problem that requires a rapid solution. I do not envision that an expanded LHO role in this area will be helpful.
- D** I wish we were given more time to fully digest what all these changes might mean to each school district. It's difficult to review the changes and comment in the time frame provided. My colleagues throughout the state have done their best to submit comments but I'm sure they would have more to offer if more time was allowed. We feel it's important to comment on these changes but urge the DOH to postpone the adoption of these rules until the full implications of these changes can be realized.
- D** These rules do not offer sincere protection to children or teachers and as such are deceptive and worthless. They may feel good to DOH, but how are individual parents truly going to protect their children when enforcement decisions are kept local, where the financial resistance to change is the greatest? You see from other comments on the site that these changes will cost money and how they balk at the 'unfounded mandate'. To nearsighted administrators, enforcing clean air and water rules appears to be against their district's short-term financial interests. So logically, these rules must be made into WAC regulations, enforceable from a state level. Otherwise, schools will simply hire consultants who deem the air and water safe according to such and such a (not-necessarily-scientific) test or study. In my child's school, our community watched in horror as a respected teacher was transferred after filing a complaint with Labor and Industries over mold and asbestos. The district was given 5 Health and Safety citations and they cleaned-up the school, but the teacher is still gone. Is this what DOH envisioned with these rules? If not, is it realistic to expect anything else?
- D** What is the PUBLIC to think of a process that does not reflect the work of the School Rule Development Committee? How did the process evolve from input, wordsmithing, and acceptance by the Committee, to this transformed present proposal? What communication informed the Committee, and the public, that BEHIND CLOSED DOORS all of their long days of work would be omitted, distorted and molded into an unrecognizable submission for the State Board of Health? Present the State Board of Health with the original SRDC proposals and let us begin fresh from there. It is insulting to donate days of hard work, only to have product and trust destroyed. And then be asked, again, to recreate the proposal and give input on a drastically altered paper. Why are we asked to redo our work, attend unadvertised meetings, and constantly demand what should unquestionably be our Educators and Children's rights? This process has only further destroyed the citizen's faith in the Department of Health. As someone who attended all of the SRDC meetings, I find the proposal submitted to the State Board of Health by the Department of Health to be deception and self serving. Go back to the original, pass the proposals into RULE. Remember we were told, if the votes were close, they would be put into RULE not Guidance. As we have said all along WE NEED RULES. Why call it the School RULE Development Committee if no Rules are created? We need rules and consequences. Please work with the community, not against us.
- D** Rules, by their very nature, carry a much higher weight, than recommendations. Attorneys, the general public, school district employees and parents all look to "rules" as the "must do or otherwise" rather than "will attempt to do if possible based on financial constraints, staff and time constraints". It is for this reason, I believe we must carefully pick and choose what should be included as "rule" and what should be referred to the Health and Safety Guide for K-12 Schools in Washington" document (subject to OSPI & DOH approval).
- D** We are all in this together. School districts truly want to do what is in the best interest of students, staff and the public that visit their facilities. We can not do it all, or if we can do it all, not right now.
- D** Our Risk Pool advises approximately 1/3 of the school districts in this state on health and safety related issues. We receive information related to student injuries and how they occurred. Our loss trends over the past three years indicate that school districts are doing a much better job in building and maintaining playgrounds. Schools understand the importance of building safe schools, maintaining these schools in good working order, and making timely repairs to facilities and equipment, when things go wrong.
- D** Overall, many of the revisions to this document tend to be overly prescriptive. Examples include changing the minimum

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health standard for the temperature in classrooms from 65 to 68 degrees or mandating that paper towels must be provided in all rest rooms. The new regulations on daylighting are wonderful in intent but probably have no place in a health and safety regulation. In fact, a health and safety criteria test should probably be extended to any directive mandated by this document. If the goal is WAC directed general building design criteria for our schools, the best place for these criteria to reside is probably not within the School Environmental Health and Safety Rules.

- D** I have no issue with these rules recommending best practices in some areas and dictating health and safety requirements in others. It is important, however, that this document be written in a way that clearly spells out the difference between the things we must do, the things we should do and the things that would be nice to do.
- D** Overall, these revisions are positive and on balance they will make our schools safer. They also have the potential to significantly increase the cost of new construction and they will certainly increase the routine cost of operating a school district. We need to be mindful of these costs and ensure that we focus our limited resources in the areas that really make the most difference for student health and safety.
- D** As the law stands now school districts are governed by Federal, State, and local laws that pertain to the safety of our students and staff. These existing laws already cover everything that is in the proposed Rules for School Environment Health and Safety. They are also covered by the current Health and Safety guide for K-12 Schools of Washington.

My point is, by making the proposed draft, into a law or a portion of the draft into a law, is another unfunded mandate from a state agency. Enforcing and regulating these new laws will not only cost school district's money, it will affect the State and Local health agency's budgets. Has the State allocated monies for the extra staff you will need to review plans, and the staff needed to inspect and enforce the changes elsewhere in the draft?

I suggest that your committee, take another approach to the issues raised by these health rule changes. We need to educate prospective superintendents about the importance of building maintenance. This could be included into the curriculum that is taught as they earn their credentials to become a public school superintendent. This is not to say that all candidates for superintendent don't recognize how important building and grounds maintenance is, but there are many across our state that don't. We all know that their main focus is on education rather than infrastructure.

Next I would calculate the money school Districts will spend on these new laws and use that money to develop a course on how school districts are to respond to suspected IAQ, Lead, Mold and other health issues in public schools. This course would then become mandatory for all public school, Maintenance and Custodial directors. This along with my earlier suggestion of this curriculum being taught to prospective superintendents would be a top down approach to successfully meet your committee's goals for healthier schools.

- D** Please accept those comments in the spirit in which they are offered: to highlight where work will need to be done to determine if there are ways to generate the resources necessary to carry them out or if there are alternatives ways to achieve the same goals without additional resources. A collaborative effort in this regard between the DOH, the local health organizations and the schools will be needed if the Rule is to be implemented successfully and achieve its goals of ensuring a healthy and safe environment for our students and staff.
- D** In general, we encourage you to reexamine the document for clarity in the language of the rule. Some of the references do not clearly place responsibility on the local health jurisdiction or the school district, which could create confusion. A number of terms need further definition to ensure clarity, such as pesticide, classroom, general instruction area, special instruction area, non-instructional area, gymnasium, excessive brightness, and cleanability. Also, words like "should" and "kept free" may be interpreted in different ways: we would appreciate more specificity.
- D** We are also concerned that some of the changes bring in elements from existing WAC codes from other state agencies and regulations. Since these areas are already regulated, they could be eliminated from the draft without any impact on health and safety while ensuring efficiency in state government by avoiding duplication of efforts. For example, the requirement for a Phase I Environmental Site Assessment is already required by the Department of Ecology. A review of the building code also reflects areas that could be eliminated from this rule and a few that are potentially in conflict.
- D** Finally, we encourage you to consider a process for appeal. In such an extensive set of changes, there will always be areas of interpretation and unanticipated consequences. I'm sure the DOH will want to have some avenue to ensure the appropriate application of these rules as they begin to work with them.
- D** Remove "Environmental" from Health and Safety Definition and throughout the document. A comprehensive school health and safety regulation is needed to effectively address a variety public health issues faced by Washington's school children. To promote integration of Health Department programs and to better protect children's health and safety in the school setting, we recommend the removal of the word "environmental" from the proposed draft of WAC 246-366 where it is used to narrow the definition of "health and safety"

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- D** Codifying Recommendations from School Health and Safety Guidelines The OSPI-DOH School Health and Safety Guide states, "...the practices specified or recommended in the Guide include some that are already *required* by code or law...". Many of the required practices jointly identified by OSPI and DOH in the January 2003 version of the School Health and Safety Guide were not included in the draft version of WAC 246-366 and should be included in the current revision.
- D** New Section (Communicable Disease Control) (2) When provided, cots or beds shall have non-absorbent surfaces that are easily sanitized. Pillow covers and bed sheets shall be laundered or replaced between uses. (*Reference 296-823 WAC.*)
- D** Physical Activity and Nutrition Proposed changes: New Section School officials shall develop and distribute safe route to school plans for each elementary school in accordance with 392-151-025 WAC.
- D** New Section School officials shall promote student physical activity and nutrition in accordance with 28A.210 RCW, 28A.230 RCW, 28A.335 RCW, 28A.235 RCW, 180-50 WAC, 7 CFR Part 210 National School Lunch Program, 7 CFR Part 220 and S.2507 Child Nutrition and WIC Reauthorization Act of 2004.
- D** Communicable Disease Control Proposed changes: New Section (1) School officials shall control the transmission of communicable and certain other diseases in accordance with 246-100 and 246-110 WAC. (2) School officials shall report all notifiable conditions, including animal bites, to the LHO. (*Reference 246-101-420 WAC per Health and Safety Guide.*)
- D** I do not believe that this redraft represents an improvement over the existing school code. I think that any changes proposed, especially those with significant costs should provide positive changes that will benefit the school's occupants. The general feeling that I have in discussing the proposed water quality sections with water program environmental health professionals is that it will provide no net increase in safety to students. A mandate of this sort is irresponsible.
- D** The new draft eliminates much of the public health professional's ability to address general health and safety issues and focuses too much on environmental health issues. This will not provide the maximum benefit to schools and their occupants. Our efforts would be better served by attempting to harness the vast knowledge of public health professionals already present at local and state health departments and bring them to bear on the school program. A school is a very complex place. We need to take a comprehensive, multi-specialty approach to the evaluation of schools. We should concern ourselves with public health issues of all sorts: communicable disease control; hazardous materials and medical waste; healthy habits and hygiene; dental health; safety; etc.
- D** The draft does not even touch on the issue of funding, staffing and training for school programs. I suggest that the WSBOH consider the idea of operating permits for schools. This is a proven means for LHJ's to charge fees to cover the cost of inspection programs. Also, I suggest that the board consider a plan to form a LHO School Program Coalition for the purpose of training EHS professionals on school issues. This coalition might also be a place where school officials and concerned citizens could make their issues known.
- D** The new document must retain a high degree of flexibility so that new information and lessons learned at other facilities can be addressed promptly at new locations.
- D** I believe that it is important to create more trust and improved relationships with schools. A new school code should seek to create a cooperative relationship, a partnership with schools. It is critical that we are all on the same side, working towards the same goals. Public health issues go hand in hand with the school's primary function – healthy students are better students. We must work together.
- D** It is the goal of environmental public health to perform assurance functions that benefit the most people. Positive public health outcomes occur when we are able to address environmental health issues on a population-based platform, using sound scientific data. Creating rules that address a specific situation or an individual case may have its merit, but we need to be cognizant of how this impacts both the regulated community (schools), the regulatory community (local health jurisdictions) and the population we are working to protect (students). These impacts include both health and economic factors.
- D** With that in mind, the proposed changes to the School Rule (WAC 246-366) have sections that are very prescriptive (Water Supply, Plumbing & Fixtures – Section 280) and some sections remain very general (Safety – Section 380(1)).
- D** The Washington Coalition for Promoting Physical Activity is aware that the Washington State Department of Health is currently accepting comments on the proposed draft of WAC 246-366 Primary and Secondary Schools Environmental Health School Rule. These regulations have implications to the health and safety (including physical activity and nutrition) of Washington's children. We feel that the term "environmental" is limiting and should be removed from the title and body of WAC 246-366. This would promote integration of Health Department programs and better protect children's health and safety in the school setting.

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- D** Because physical activity and nutrition are major contributors to children's health, we feel that these should be addressed as well. This could be accomplished by adding new sections as follows:

Physical Activity & Nutrition

School officials shall develop and distribute safe route to school plans for each elementary school in accordance with 392-151-025 WAC.

School officials shall promote student physical activity and nutrition in accordance with 28A.210 RCW, 28A.230 RCW, 28A.335 RCW, 28A.235 RCW, 180-50 WAC, 7 CFR Part 210 National School Lunch Program, 7 CFR Part 220 and S.2507 Child Nutrition and WIC Reauthorization Act of 2004.

- D** Normal people expect common-sense protections in schools: the air should be clean, the roofs shouldn't leak, and the water shouldn't taste funny.

While some of the ways to optimize clean environments are within the control of classroom teachers----minimize clutter, report concerns, use non-toxic supplies, have the hamster visit but not live there, remove the Glade Plug In that masks the odor of the 15 year old carpet---many areas are simply not within a teacher's ability to fix.

We cannot repair roofs, remediate mold that grows between damp walls, identify glass fiber coming off of ceiling tiles, or adjust the exhaust fan of the unit-vent or HVAC.

The situation is so bad in so many schools----regardless of what the facilities managers and WAMOA members are saying in this forum---that most teachers come to expect the schools they work in to have problems: mice, roaches, high dust-loading, mold on the ceiling and carpet, and brownish water become normal.

We are used to hearing about the high cost of fixing things, and the dismissive tone of superintendents and risk-managers when a concern gets raised promotes an attitude of shared helplessness: why speak up if all that is going to happen is someone will tell you the problem isn't that bad? More often than you would believe the complainant is deemed a trouble-maker, a crazy person.

It becomes easier to endure the irritants and flu-like symptoms until you just can't take it anymore. People become fearful not just for their health but for their livelihoods, so they stop talking about it. They just put up. Sometimes this destroys their health. I am not singling out a few high-impact cases. This happens so frequently that, if you mention a structural problem in a school, a large fraction of the people you encounter start telling you their own sick building story. We need to change our priorities so that unhealthy schools are not permitted to damage any more lives.

You, members of the WSBOH, have the political connections and access to change this. You can talk directly to people who can influence a change in priorities: an 8 day WASL for a nine-year-old is not educationally more necessary than a well-lit, quiet, clean room in which to learn. Please use your position and your connections to the Governor, to legislators, to the AG, and the teachers and parents to bring balance to our educational system. Many have shared with you their stories of bullying administrators, unscientific DOH personnel, and dreadfully unhealthy facilities. The honor system has not worked. The comments from facilities risk managers on this page make it very clear that these non-educators are okay with spending our educational dollars on an unbalanced assessment system, on competitive salaries for themselves, and even on litigation against L&I awards. That they would balk at having a mold-response plan, or an appeals process, or sensible rules regarding water-contaminants, dust, and pesticide reveals a bureaucracy that should send chills down our backs. Please demonstrate, via enforceable rules, your concern about the health and safety of children and educators in our school buildings.

- D** Risk managers who want to deny liability put children and educators in harm's way: superintendents like Joe McGeehan and Raj Manhas allow years of water-intrusion, deny problems that parents and teachers bring forward, and then send their PR perky spokespeople to tell the media "Everything is fine. We have been very responsive." Pressed for details, the spokespeople have no specific information and will ignore questions because someone told them what to say. The WSBOH, Governor Gregoire, Superintendent Bergeson, Attorney General McKenna, and our legislature are morally compelled to hold these school administrators accountable for their failure to maintain the most basic industrial hygiene. Science and history have taught us that dusty, damp, moldy, unmaintained, pest-infested school buildings lead to health complaints. Period. They get away with their unscientific "see there's nothing wrong here!" tests, like DOH's Tim Hardin using a moisture meter to record relative humidity and walking past rooms with visible mold, because you and the DOH let them. How would you like it if your own children or family member were made chronically ill because he or she went to a school building that damaged his lungs, gave her brain-fog, caused autoimmune damage, left him so dizzy he couldn't walk, caused her to cough up blood? When you reached out for help, you were called crazy and your specific concerns were ignored. You have no appeal. This is the common story. To say we can't afford this type of system, with mandatory notifications like we use when a sex offender is presumed to be nearby, because it costs too much, is intellectually weak: we have a testing system worth billions of dollars, and administrators---many of whom have posted

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comments on this page decrying unfunded mandates---begin with salaries no classroom teacher will ever make. It is not about the money, it is about the priorities. Please create a real safety net for children and educators: if you don't do it, call your own legislators and get them to help you---you have the access we "regular people" don't have. We depend on you. -- on behalf of 63 injured students and school employees who are frightened to have their names used

- D** From reading the comments of facility managers, risk managers, and local health jurisdiction officials from around the state of the SRDC website blog, I clearly see the reason that our schools are in such desperate shape. Denial, deception, and obfuscation are endemic. Perhaps that is why DOH gravitates to their perspectives.

I see no sincere desire of DOH to correct past mistakes, or abuses of authority, up and down the regulatory chain.

From an Environmental Coordinator in a school district who conceals lead contaminated drinking water data from teachers and parents -- to a Local Department of Health officer to merely takes humidity and carbon dioxide measurements to declare school air quality in moldy classroom is safe, - to the state Indoor Air Quality expert to testifies that he has NEVER seen mold symptoms in any Washington State school --- DOH continues to turn a blind eye to the ongoing damage to our children and teachers.

When your own Assistant Secretary of Environmental Health testifies against a safe school drinking water bill in a Senate hearing, and contradicts your OWN department's position statement on copper contaminated drinking water in elementary schools (see attached file), you must clearly recognize that your agency is mired in a morass of darkness.

Your collective vision of becoming primarily an advisory agency for school environmental health is fundamental wrong. Your perspectives and goals are out of touch with reality. Your draft WAC Codes actually ensure that the tragedies you have heard about will keep re-occurring.

Now that I know your individual approaches, your perspectives, and your recalcitrant positions, I can pinpoint where you, as individuals, and as health officials, are failing society.

Bottom Line of this Message:

1. Put ALL of the SRDC proposed rules into code vigorously and effectively.
2. Stop misrepresenting SRDC votes to the SBOH and the public (e.g. the lead in drinking water vote was closer than the copper and cadmium votes). You told SRDC members that positive votes for rules would supersede guidance votes. You are now denying this.

Stop telling the public that you made every effort to include the SRDC recommendations into your draft WAC codes. This is overtly disingenuous. You cannot achieve a functional public health system through spin control.

3. You have ignored a UNANIMOUS vote of the SRDC committee to have a complaint and appeals process in the WAC Code, as a rule. Instead, YOU decided to adopt this as "guidance." When did a complaint and appeals process become "guidance"? I think you already realize that your draft codes do not have the words "enforce" or "enforcement" anywhere.

4. No one is buying into your "compliance and enforcement" piece. You should shelve it, and work on getting a functional set of codes to deal with hazards in schools.

A separate code to deal with hazardous and dysfunctional individuals and agencies needs to be addressed later. This piece will require input from WEA, parents, the Attorney General, and the Governor. This piece is beyond your vision or capabilities to formulate by yourselves. I told you, Mark and Nancy, in our final SRDC meeting, that parents and teachers need a complaint and appeals system that can respond like the Department of Labor and Industries. Moreover, L/I needs to be given the NEW right to make unannounced inspections in schools, in response to health and safety complaints. State whistleblower protection needs to be extended to all school employees, because school employees are frequently intimidated and retaliated against, if they speak out about school environmental health hazards.

5. The above solutions go against your failed vision of local decisions (influenced somewhat by state guidance), so I have very little confidence that you will accept anything I have to say to you.

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Some of your proposed draft WAC codes clearly violate federal and state law, by taking away rights of employees to be protected by the state Department of Labor and Industries, and by NIOSH. How can L/I or NIOSH respond to a mold problem, if a school district has a written mold response plan that says paint over the mold, and leave it in place. Or, a school district whose mold response plan states that mold behind a wall is not a health risk ("scientifically justified" by a paid consultant). Your draft WAC codes allow schools to formulate local plans without state oversight. The rights of affected individuals to appeal the inappropriateness of these mold response plans is not included.

Where is the state mold response plan that you were supposed to formulate?! Where is the requirement that all school must meet certain basic and reasonable requirements: e.g. (1) Mandatory evacuation of a room with visible mold, behind or in front of a wall or ceiling; (2) psychogenic illness cannot be used to dismiss mold exposures or injuries, (3) prompt remediation of water-damaged building materials.

We can no longer allow children and teachers to remain in rooms with buckets catching rain water from leaky roofs, or having class conducted in 2 inches of standing water (both have happened in Washington State schools). When a teacher or child is damaged by mold in a school district with a defective mold response plan, what recourse do they have in a court of law? The court will read your WAC code, see that statutory authority was given to the local school (or their paid consultant (i.e. other "entity")), to inspect for mold and respond to it using their own perspectives.

Think about the 14th Amendment: Equal Treatment for citizens. Think about RCW which states that: "all state employees.... shall enforce all rules adopted by the SBOH." Where in your draft WAC codes is this RCW mentioned? All other WAC Codes reference relevant RCWs. Your codes leave these statutory authority issues to the reader's imagination.

Think about the federal Individuals with Disabilities Education Act (IDEA), which requires schools that receive federal funds to provide a healthy environment for disabled individuals. Do you view children with severe asthma, sickle cell disease, cancer, or AIDS, to be safe in schools where mold is painted over???

You should deal with the egregious legal flaws in your codes NOW, rather than later.

Perhaps you should put aside your aversion to public input, and create codes that actually protect individuals, rather than institutions. You may have parents and teachers calling for injunctions, if you do not work through the unintended consequences of your draft codes.

6. Parents and teachers no longer trust the DOH to formulate functional WAC Codes. For this reason, we are writing an alternate set of WAC Codes to present to the SBOH. Our codes will provide point-by-point counterpoint to the defects in the current draft WAC Codes.

An Internet BLOG is being set up, to ask Washington State teachers and parents to relate their horror stories to the SBOH, and to our Governor. National organizations and news media will soon see how Washington State has become a poster child for sick schools and dysfunctional government.

The Darkness of DOH: The deposition of Timothy Hardin (Indoor Air Quality Official for DOH) in the case to overturn a Department of Labor and Industries award to Ms. Annette Schillinger for school related mold injuries.

Q. Have you had any specific experience with mold?

A. More than I really want to be honest and truthful.

Q. Why is that?

A. Mold indoor air quality has a tendency to move with a flavor de jure.

When I first started with the State of Washington it was volatile organic compounds or VOCs. Even though we recognize that VOCs can still be a problem, the public perception of that as a risk has decidedly wanted in favor of mold, if you will.

I'm not trying to be funny. So I probably, like I said, I get about three or four thousand phone calls a year. I probably get 2,000 emails a year. Ninety-five percent or better of those are probably about mold.

Q. Have you had occasion to inspect other schools where mold is said to be a problem?

A. Correct

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Q. Have you ever found mold to be a health problem in these other places that you've inspected?

A. No

Q. Have you found low relative humidity to be a problem in these schools?

A. Correct

Q. Have you found that to be the problem every time?

A. I wouldn't say every time, but in the majority of cases, yes.

....

FYI, Tim Hardin was familiar with the Cle Elum School District mold outbreak. The federal National Institute for Occupational Safety and Health (NIOSH) was called out to investigate. NIOSH found mold in the ventilation shafts of a Cle Elum school. The ventilation shafts were condemned and sealed off. Tim Hardin was on the final health and safety inspection of Cle Elum.

So what??? What's your point, Mark? Why do we need to look back at past exposures and past mistakes? Tim Hardin no longer works for DOH. We need to go forward. Our goal is to create better WAC Codes.

My point is that Tim Hardin and you, Mark Soltman, are responsible for the dysfunctional IAQ codes that we are dealing with now. (I sat through an IAQ workgroup session in which Tim Hardin tried to get the IAQ group to classify mold as a nuisance --similar to a wood dust issue).

Why are these codes so dysfunctional? Because they DO NOT correct the mistakes and ABUSES of the past, or of the present. DOH repeatedly dodges taking responsibility for its actions and inactions. You claim you do not have the statutory authority to keep records on past exposures. Then you ignore the evidence presented to you by parents and teachers.

How are you going to create functional codes when you dismiss the recommendations of the SRDC? How are you going to create functional codes when you outsource statutory authority to local school officials, or their hired consultants? How are you going to create codes that teachers, parents, as well as the press, will accept as functional?

You will have to abandon your current style of dealing with complaints and criticism from parents and teachers.

I want you to read a sick teacher's OWN words about her deteriorating health. She was working in a school that was infested with mold (found later). THIS is an example of the school environmental health and safety DOH has been providing the State of Washington:

"Bronchitis, Chronic Sinusitis. Symptoms subsided for the duration of the summer break. Severe cold symptoms combined with cough, nasal drip, and nose scars, coughing blood and blowing out blood, headaches and vertigo. Sent home, still unable to work. Spit up approximately 3 large "clots" of blood size is of comparison to a 50-cent piece (all blood). Symptoms continue, body aches fatigue and headaches appear more severe (I barely make it through the workweek)."

CAN YOU read these words without weeping? I cannot, because I know the DOH did not respond to her distress. Would each of you be concerned if you were coughing up blood clots the size of 50-cent pieces? Would you be distraught and depressed if your employer said you were hysterical and probably suffering from low relative humidity, or perhaps "psychogenic illness"? Would you be distraught if your school district concealed your symptoms from others, fought you in court, denied in the end (after mold was found) that you actually suffered from mold exposures at school?

Can you identify which school district this is? NO. Because this has happened in multiple school districts around the State of Washington during the last 10 years. This school could be anywhere in Washington State. Should we forget about this past tragedy and go forward? Or, should we figure out WHY DOH does not deal with school mold in a regulatory fashion? We do not need any more Tobacco Industry type statements and policies on IAQ coming out of DOH.

How can I get it across to you how out of touch you are with the current situation in our State?

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Mold response plans for each school district. Sound great on paper. But what happens when you have a school district, like the Seattle Public Schools, that merely paints over mold, and then leaves it? That is THEIR plan. They refuse to accept orders from doctors at the UW Medical School, and the Fred Hutchinson Cancer Research Center, that the mold in a high school is dangerous to their patients, and that the patients SHOULD NOT ENTER the classrooms until the mold contamination is remediated. Under your codes, the Department of Labor and Industries could not move in to correct the problem. Because the WAC Codes would give them the STATUTORY AUTHORITY to make their own decisions.

Here is a major question for you: If a school district ignores UW doctor orders about mold, what make you think they will follow any state guidance, or state rules, without facing non-compliance penalties? Your codes would make the current situation worse than it is now. DO YOU CARE ABOUT THIS? Is your goal to create dysfunctional codes? The codes will not stand up to court challenges.

Read some other words from mothers whose children drank water contaminated with copper and lead at Decatur Elementary in Seattle:

"My daughter spent her kindergarten and first grade years in the infamous Room 5 at Alternative Elementary #2, where lead levels tested at one thousand eight hundred ppb, when the EPA action limit is 20, and the EPA goal is 0 ppb. The copper level found in this same water fountain also exceeded EPA copper standards by a factor of three, standards that are set for adults. It had levels (over 4 mg/liter) that would cause adults to double over with pain. ...my daughter had chronic stomach pain for the 2 years she was in that classroom, a classic symptom of copper toxicity. At the time, her hair tests came back with very high levels of copper.

None of these families have ever been contacted, and none of their medical records have been reviewed. No public health investigation has occurred, and yet we have medical professionals and school district administrators publicly stating that there have been no ill effects in any children from any school water fountains, including those putting out 1800 ppb of lead and over 4-6 mg/liter of copper. This sweeping denial of harm done is infuriating for those families whose children have had their lives significantly damaged... Seattle District administrators knowingly prioritized the construction of new buildings over protecting our children from known neurotoxins and carcinogens. The hid high lead levels from parents and teachers, and allowed years of exposures to impact thousands of Seattle children.

....

The science is solid indicating the toxicity of cadmium and copper, and therefore it is imperative that you require the Board of Health to set standards for both of these metals, as well as for lead and corrosion. Requiring schools to test for cadmium and copper is manageable, when testing is already occurring for the lead and the same samples can be tested for additional toxic metals. It is irresponsible and immoral to do otherwise.

Another mother's child in the same classroom:

During her kindergarten year I saw her changing day after day not knowing exactly how to verbalize and define what was going on with her until one day I realize that we had a serious problem: she could not find her own bedroom. Her whole first grade year I watched her regressing and developing an ever growing physical, mental and emotional distress and it was terrifying. Every morning I used to wake up and not knowing what would happen that day, what new symptom would arise or if this would be another emergency room day. I remember myself one day crying in the kitchen and thinking that I was losing my child that she may end up with a mysterious debilitating disability. It just happened that she was in the classroom, among the whole Seattle district, that has not only the most lead content in its drinking water, but also a copper level that is way above the EPA recommendation. It also happens that she is not the only one. Many children in AE2 have had unexplained daily bellyaches, headaches, and unusual fatigue..... (this girl had painful spinal taps to try and locate the origin of her illness. Her symptoms disappeared, along with other children in the

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room, when they began drinking bottled water).

Another mother's words from the same room in AE2:

Dear Secretary Mary Selecky and State Board of Health Members,

I testified before you on March 8 of this year. I told you about the horrible effects that copper contaminated drinking water had on my son at Decatur Elementary in Seattle. My son was not alone. A number of other children had the same stomach aches. Some of these had headaches and muscle cramps. All of them recovered once they started drinking bottle water. Please do not let this happen to other children in our state. Our school administrators would not have tested the water for copper and lead on their own. They were forced to by rules and policies put in place by the Seattle School Board. Please realize that we need to test for copper.

My son was 6. He was just entering the first grade in a new school. That fall he began to have stomach aches. He would come home and sometime in the evening he would start crying. "Uh I don't feel very good." Run for the sofa holding his stomach. And scream, writhing and moaning. We weren't allowed to move him. "Don't touch me, don't touch me. Tears would be streaming down his face "no don't move me, owwwwwe" he would be almost whispering, trying not to move. "mommy, mommy, mooommmmy!" Because they would finally subside and seemed to hurt so much, we thought they were gas pains. The next day he would seem fine. A few days later it would happen again. The pattern had begun and we took the time to try to analyze it. When they seemed in frequency to happen right before dinner we thought-- maybe he doesn't want dinner. While we were all huddled around him on the nights he was writhing in pain, the food got cold. We began to think maybe he didn't want to eat or that maybe something else was going on at school, that he needed more attention. Food-wise we could not see a pattern or connection. We then determined it could be related to the dinner hour, when we could finally look at one another across the table and enjoy one another's company. But it was copper in the school water that robbed us normal family time so many nights. It hurt my child and broke our hearts to see him in so much pain. Untested water full of lead and copper had us scrambling at a time that should have been ours to be together as a family. He was repeatedly being poisoned in his own classroom at school. His classroom not only had lead levels of measured at over 1,000 parts per billion, but copper levels 3 times the maximum for what is considered unsafe for an adult. Copper levels were measured at 4.3 milligrams/liter. The maximum limit is 1.3 mg/liter

When the school began to offer bottled water, a few months after the start of the year, his stomach aches stopped completely.

The toxicity levels in school water were known to have been in excess for more than a decade, while children and parents have had to suffer quietly. You have the power to make their drinking water safe. It just isn't decent or responsible to deliberately trade the health of an innocent child for money. This has been the convenient and destructive path that has and continues to cost so many children their health and well-being. Please set standards that mandate compliance for safe levels of copper and cadmium. Do not cut corners when it comes to these metals being ingested by our children. They go to school to learn, not to be impaired. We send them in the school's care but they need more protective measures in this regard.

Federal penitentiary prisoners are protected, with regulations against toxic levels of cadmium, copper and lead. It is a basic human right not to be poisoned. Need I convince you of the rights of my child and all the other people's children who were impacted, some of them much worse, by the toxicity of the water?

We need regular testing to make appropriate repairs. The grounding of electricity on the pipes to my son's classroom's water fountain created the chemical affect of making a battery. If you regulate, there will be tests and testing is the only way you are going find problems. Unfortunately guidelines are only suggestions, advice only goes so far. For all of our precious children who have had to endure these conditions so someone can save a buck, please hold them with the value they deserve and regulate this dangerous

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practice-- it has to be in Rule in the WAC Code.

Finally, words from a disabled teacher:

On Wednesday, March 8, 2006, I crossed over. I will never be the same. I left my small Eastern Washington town, at the request of a friend, and crossed the pass to Olympia in the face of storm warnings to attend a meeting of the state Board of Health. The board was reviewing a draft of the first attempt to revise school health and safety rules in 30 years.

The people that came to comment from around the state expressed their displeasure with the weakness of the document, which left no one accountable for the health of the children in our schools. They did so eloquently and with passion.

I spoke second. Like others, I too was harmed by an unhealthy school, in my case from breathing fiberglass shed by ceiling tiles. My life has been irrevocably damaged, turned upside down, and often resembles a living hell. Those that followed also told a tale of horror in our schools, and the list is long and sordid. The things burned into my memory are many: Prisoners in our state having better drinking water than our children; the sample presented unfit for a dog. Our legislators being removed from the state capitol and not allowed to spend one day with mold, while our children are left to sicken in the same and worse conditions. One teacher made to choose between two buildings the difference? Different kinds of mold. Children sickened by water, and teachers permanently disabled by mold, chemicals, and fiberglass; and everything that affects a teacher affects a child. Superintendents, school boards, and risk managers more interested in limiting liability than in the health of our children. The Department of Health frozen in time. And I could go on.

But nothing prepared me for the story told by a mother of her son, who was exposed to chemicals used in asbestos abatement when he was in grade school. She told of her child's excruciating pain and fatigue, of the district's assurance that all was safe, of the subsequent effects of the exposure. Through her gentle crying, she told of his inability to tolerate vehicle exhaust or stores with new items that off-gassed, of her attempts to create a safe home for him, of the district's refusal to provide accommodations, of the long legal battle. And then she told us about the mask, the mask he wore to allow him to breathe, the mask he was ridiculed for, and not just by children. This mask that allowed him to live caused him anguish as the police stopped him on the sidewalk and questioned him like a criminal. His mother told of concert officials who wouldn't allow him to wear it, leaving him to recover from his exposure, bedridden for the following four days. And finally, we learned that he was followed to his home and interrogated for wearing it while mailing a letter.

And I understood these things, because I've worn a mask to escape fiberglass, and fragrances; to one like me, the cruel habit of humanity. And I've seen the stares and experienced the ridicule. It was the only way I could survive. But I'm not a child. I'm not looking forward to an incredible number of years, years of horror. After a long battle, at twenty-two, he took his life.

As his mother finished her testimony, I was ashamed. Ashamed and forever changed. I was ashamed that this is what we do to our children. I was ashamed of school and government officials and parents of healthy children turning a blind eye. And worse, I was ashamed of my colleagues who teach about revolutions, but won't join one, who are silent when they should speak, who hide behind their health or fear and let our children suffer. For if we have not done our part to keep this from happening to another child, then who are we? Is this not reason for revolution? We need standards, and we need accountability. We must have them, no matter the cost. The cost cannot compare to even one child's life. When our children are treated better than our prisoners and as well as our legislators, then we can sleep at night.

Cathy Kooy

Is anyone one of you moved to change your positions? Can you imagine losing the health, or the life, of your

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child to the irresponsible behavior of a school employee, school administrator, or DOH official? What more is necessary for you to give children and teachers safe schools? After Tim Hardin's, as well as your own actions, you must really do some self-reflection and ask yourselves, why you are here.

Mark Cooper

- D** The Washington State Public Health Association (WSPHA) believes that the current Primary and Secondary School rule revision process represents a unique opportunity to expand the scope of WAC 246.366 to address children's health and safety more comprehensively and more effectively.

To encourage a health promoting school environment, we request that the Washington State Department of Health expand the scope of WAC 246.366 to create a more comprehensive school health and safety regulation. More specifically we request:

- Codification of the recommendations from the *School Health and Safety Guidelines*; and
- Inclusion by reference of other pertinent existing state regulations related but not limited to communicable disease control, physical activity and nutrition promotion, and second-hand smoke exposure prevention.

We know that the health and well being of Washington's children is a top priority of the Washington State Department of Health and the State Board of Health. Many of the goals, objectives and strategies outlined in the Washington State Board of Health 2005 Five-Year Strategic Plan support the idea of a comprehensive approach to children's health and safety.

WSPHA believes that these recommended changes to WAC 246.366 will allow greater flexibility for public health professionals to more effectively address school health and safety issues and will make it easier for our children to be healthy and ready to learn.

- E** **SRDC Proposal 8D; Eliminating all lead based products could increase building costs and prohibit materials where no viable options are currently available.
- E** Need to require copper and cadmium testing.
- E** If no lead fixtures are being used why sample?
- E** Sampling for copper and cadmium needs to be in rule because of toxicological concerns, don't leave it in guidance.
- E** Shoreline and Seattle have set limits for copper and cadmium and the rule should too.
- E** Senator Jacobsen is prepared to introduce legislation to require schools have water quality standards equal to those in penitentiaries.
- E** Don't be limited to EPA guidance, be more proactive and protective and put it in rule.
- E** Arbor Heights water quality in 1990 was bad with rust and school official said the water was safe to drink. School sitting on test results. 1998 water still not safe to drink. Used Brita filter so teacher and students in classroom could drink the water.
- E** Had there been testing in place, the cost would be less to remediate so supports testing to see what is in the water.
- E** Ensure that drinking water is safe by requiring testing for copper, cadmium, toxic leachates from pipes, and other common hazards (Received from 82 persons)
- E** There are a few sections where the rules begin to address environmental hazards that have been ignored in the past, including some language regarding pesticide usage and testing for lead in drinking water. The inclusion of these areas of environmental health concern is important and welcomed.
- E** These rules must ensure that drinking water is safe by requiring testing for copper, cadmium, toxic leachates from pipes, and other common hazards. This was strongly suggested to be included in the rules by the SRDC, and should be in the next draft.
- F** **Consideration of avoiding siting schools within close proximity to freeways or heavily trafficked roadways.**
The California Children's Health Study has investigated the health effects of children exposed to air pollution. This research has found that air pollution exposure in California children reduces lung function and growth, raises the risk of asthma development and increases school absences due to respiratory illness. A recent study from these researchers

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looked at kindergartners and first graders from thirteen California communities. The investigation compared children living in close proximity to major roadways to children living farther away. The study found that children who lived the closest to roadways (75-150 meters) were more likely to have asthma or asthma symptoms than children who lived at a greater distance(300 or more meters) (1).

Particulate matter (PM) air pollution is one of the Criteria Pollutants regulated by the United States Environmental Protection Agency. Diesel engines used to power trucks are a major source of PM. Levels of PM are elevated near major roadways. Long term exposure to particulate air pollution has been shown to cause increased morbidity (illness) and mortality (death) and shorten overall life expectancy (2).

The California Environmental Protection Agency, California Air Resources Board has developed the "Air Quality and Land Use Handbook: A Community Health Perspective". The document provides recommendation for appropriate land use so that people are not located near sources of air pollution such as highways. Air pollutant exposures are often substantially higher near heavy traffic. These guidelines note that California State law prohibits siting new schools (with some exceptions) within 500 feet of a freeway or, urban roadway with traffic of 100,000 vehicles/day or rural roadways with traffic of 50,000 vehicles/day (3).

A large body of research has established the adverse health affects of air pollution exposure. Given this knowledge a precautionary approach should be used in planning the siting of new school construction. Consideration should be given in revising the School Environmental Health School Rule to establishing construction limitations that would avoid new schools being built near a freeway or major roadway. This would limit children's exposure to air pollution.

1) McConnell R, Berhane K, Yao L, Jerrett M, Lurmann F, Gilliland F, Kunzli N, Gauderman J, Avol E, Thomas D, Peters J. Traffic, susceptibility, and childhood asthma. *Environ Health Perspectives* 2006 May 1;114(5);766-772.

2) United States Environmental Protection Agency. Air Quality Criteria for Particulate Matter, October 2004 [CD-ROM]. [cited May 31, 2006], EPA/600/P-99/002aF, EPA/600/P-99/0022bF.

3) The California Environmental Protection Agency, California Air Resources Board. Air Quality and Land Use Handbook: A Community Health Perspective, April 2005 [cited May 31, 2006]. Available from: <http://www.arb.ca.gov/ch/handbook.pdf>

F CO₂ didn't make in the rule and there should be a monitoring standard developed.

F Where is the data showing there are mold concerns and heavy metals?

F Particulates are a problem (dander, dirt, and glass fiber) coming from ceiling tiles. Why are they deteriorating? One school was told to vacuum the tiles which caused a bigger problem. Recommend discouraging open plenum design for HVAC.

F Concerns with lack of specifics associated with IAQ.

F Why doesn't the rule speak to fiberglass if fiberglass is a problem?

F There is a lack of confidence in school officials and risk managers

F Schools have discredited victims rather than address problems.

F No toxicology testing is required in the draft... it should be included.

F We need stronger state standards governing clean air in our schools. I have experience in this area I wish I didn't have. In 1996, I accepted a job at a high school and was looking forward to a bright future. Ten years later, I have chronic ill health because of poor indoor air quality.

The problem at my school is fiberglass. It's been documented, medically proven, and accepted by L&I that I have a permanent partial disability due to occupational fiberglass exposure. I will point out how a lack of appropriate guidelines and rules for testing for fiberglass can cause problems in achieving clean air. In assessing the quality of air in a building, different tests can be used. Some tests measure the overall particle load and other tests indicate the specific particles in the sample and then make a judgment based on the quantity of those particles.

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The first set of air tests done at my school showed that the total particle load was well within the normal range for classrooms. If you were to depend on this type of air sample alone, you would think the air clean. When the air sample was analyzed for type of particle, however, it showed that the amount of glass fiber in the sample was very high for an air sample. The tape tests also showed that glass fiber was a problem.

After cleaning and retesting, Fulcrum Engineering (along with Microlab Northwest) recommended that the ceiling tiles be either sealed or replaced. Instead the district cleaned the plenum and clipped down the tiles, a cheaper solution, which may have further disrupted the glass fibers in the tiles. A lack of appropriate state standards left the district free to make the most economical decision.

Follow up tests were done several months later with a different testing company. This time the air tests only measured overall particle load, which indicated clean air like the first test of this kind. The tape tests, in contrast, showed that glass fiber was present in all tape lifts at elevated levels. But the air was pronounced clean based on the air test, and since there are no guidelines as to the type of test to use for fiberglass, nothing could be done.

A year later, the air was again tested. The rooms tested were thoroughly cleaned prior to testing, a questionable practice. Again, the air tests showed an overall particle load that indicated clean air. Even after extensive cleaning, however, the tape tests showed that "Glass fiber from acoustic ceiling tile was present in all of the tape lifts" at significant levels. The tape tests were ignored, and the air was pronounced clean enough.

A year and a half later, the air was again tested. This time L&I was chosen to test the air. However, no mention was made of past problems with fiberglass nor was L&I specifically asked to test for fiberglass. L&I only tested the air for overall particle load, which was within reasonable limits, the same as the original test and all the subsequent ones measuring this. Based on the original results for overall particle load, when fiberglass was deemed a problem, this is clearly not a reliable indication of clean air.

Based on all the tape tests done, fiberglass is still a problem at EHS, but the tape tests are being ignored because of a lack of state standards that specifically and effectively address this issue, nothing further is being done. The only thing that might force the issue is public outcry, but let's talk about that.

Glass fiber causes skin rashes, sinus congestion, sinus headaches, bloody discharges from the nose, dry itchy eyes, sore throat, and nausea. Unfortunately these complaints can often be blamed on things other than fiberglass exposure making it hard for occupants to pinpoint the source of their discomfort and making it easy for other entities to discount fiberglass as a problem.

It took a year and a half in the building for my first symptoms to appear, and they were mild. After two and half years, they worsened. Because I had no allergies or asthma before working at this school, it took me three more years before I recognized a pattern of getting better in the summer and then having my health worsen again by the end of the school year. It took six years of working at the school before I was convinced that something in the building was the problem.

Students only attend our school for four years. They have symptoms, but they're not there long enough to understand why. Other staff have developed symptoms also, but it's dangerous to complain. Myself, I've experienced ridicule and harassment. It has not been comfortable, and I don't blame people for not wanting to speak up.

The students and staff who suffer have no recourse except through you. You are the ones with the power. It is my hope that DOH will provide those of us who suffer now, and those who will suffer in the future, with an airtight bill of rights for indoor air quality, and for that, we need to include language and rules pertaining to fiberglass in this document.

I'm a minority. I didn't ask to be born with sensitive skin and mucous membranes, but I have them. I would like the right to live a healthy life alongside those who were born with different skin. As long as I don't have to breathe fiberglass, I can function quite well. You are the ones who can ensure that.

There are different kinds of people in this world: some who fight for justice with little thought of personal cost; others who care little about the plight of those less fortunate and work for their own comfort and advancement instead; and still others who have an eye on appearances and blow with the current wind. I would encourage you to be the first: be caring people of courage. It's easy to discount something you haven't experienced yourself, and it's hard to fight for it, but I ask you to try. And although this piece of history might be obscure and meaningless to the masses there is still room for heroes in it. Thank you.

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- F Improve air quality in classrooms by requiring better testing for particulates and banning materials that can diminish indoor air quality. (Received from 82 persons)
- F What about fiberglass?
- F What about ceiling tiles used in the hanging ceiling structures having a fiberglass particulate problem? Our tiles are pretty much the same ones (from 1991). There is an obvious disintegration going on with these aging tiles. There is a "fiber" dust in many rooms.
- F These rules need to improve air quality in classrooms by requiring better testing for particulates and banning materials that can diminish indoor air quality.
- F Why aren't there strong standards included concerning particulate matter?
- F Why don't the rules address the use of materials that are known to severely impact particulate levels in indoor air?
- F How will DOH ensure that schools are adequately responding to incidences of poor indoor air quality?
- F Where is the state mold response plan that you were supposed to formulate?! Where is the requirement that all school must meet certain basic and reasonable requirements: e.g. (1) Mandatory evacuation of a room with visible mold, behind or in front of a wall or ceiling; (2) psychogenic illness cannot be used to dismiss mold exposures or injuries, (3) prompt remediation of water-damaged building materials. We can no longer allow children and teachers to remain in rooms with buckets catching rain water from leaky roofs, or having class conducted in 2 inches of standing water (both have happened in Washington State schools).
- F In Snohomish County, approximately one out of seven children had an asthma attack or took asthma medication (Washington State Healthy Youth Survey, 2002). Poor indoor air quality can trigger asthma attacks, which can have severe and lasting effects on the developing respiratory systems of growing children. Indoor air quality is diminished with an increase in dust and other contaminants along with poor circulation of outside air. Many schools, with limited budgets and additional students, have also been using portable classrooms that we have found to have poor air circulation. As part of our mandated school inspections, we collected indoor air data. The school inspection program has recently collected CO₂ data from 1605 classrooms. These data show that 22% of the classrooms tested have elevated CO₂ levels, while 43% of the portable classrooms have elevated CO₂ levels. Based on our existing CO₂ survey data, we estimate that there may be over 2000 classrooms with elevated CO₂. This means that as many as 40,000 students could be working in areas of poor indoor air quality. The CO₂ meter has not only been an excellent tool to locate air circulation problems in schools, it has proved to be an excellent tool for starting conversations concerning indoor air quality. Typically, our comments to the schools concerning CO₂ data includes a statement that carbon dioxide concentrations have been widely used as an indicator of indoor air quality, and high CO₂ values have been shown to correlate with student absenteeism. We have also noted that many schools accept free computers from corporate donors, and these computers are often found in regular classrooms rather than computer labs. These factors have resulted in situations where there are now many classrooms with dirty carpets and poor air circulation, crammed with ozone generating computer monitors.
- 100 100 / except Section 2 that only applies to new construction and major remodeling.
- 110 Goals for School Environmental Health & Safety Rules should include not only the term realistic but the term "practical"
- 110 246.366.110 The added purpose is opinion not fact and should be removed. Many of the proposed rules are thought by many to be "nice to haves" but they are not required to provide for the health and safety of building occupants. Inclusion of this language implies that a failure to implement optional recommendations somehow endangers building occupants.
- 110 246-366-110 – This is a speculative comment. It places all accountability on the school district official. In order to be effective, school officials, school staffs, school facility users and local health officers, must all comply with proposed health and safety rules. School officials complying with LHO's requirements are not immune from potential liability.
- 120 Emergency eye wash: in addition to the 10 seconds cited in the draft, I recommend adding a maximum travel distance. It seems that the intent of the 10 seconds is that someone would calculate the distance, or travel path, why not just set a maximum distance as well so we all calculate it the same.
- 120 Emergency shower: What about temperature of the shower water? There are standards (ANSI) that cite temperature requirements to keep someone from "jumping out" of the cold (50 deg F) shower.
- 120 MSDS: The definition seems rather lame, doesn't OSHA or other agencies have a better code type definition that could

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be copied or referenced? These become rather important when emergencies are responded to or systems are designed to handle product chemistry based on the MSDS.

- 120** Noise Criteria: Should be referencing ASHRAE or another acoustical reference to accurately define this. The NC35 is a specific curve, and the actual dB levels for each octave band are defined by ASHRAE (and others).
- 120** Another area I find troubling is item #20 under definitions. "New Construction" means the following: (f) Portables installed after the effective date of these rules. What this will do is cause all of the portable classrooms in the state to become noncompliant and unusable the next time they need to be relocated. You're talking about millions of dollars in assets owned by the schools or the leasing companies who service the education community that potentially could not be used anymore. The classroom buildings are built to the same adopted codes as the site built schools and should be "Grandfathered" into any new rules. To require relocatable classrooms to meet the new rules just because they are relocated is very short-sighted and shows a lack of understanding of the reality of what it takes to build a building to meet the new standards being put forth.
- 120** What is meant by practicable?
- 120** Definition of LHO, what is meant by a qualified physician do they have the expertise to be doing design review?
- 120** Under new construction, Section 10(20) (b), is there a certain percentage of a when a remodel constitutes meeting the definition of new construction?
- 120** 246-366-120 (1) definition of "accredited" should include certification of labs for ANY testing and/or analyses – not just drinking water.
- 120** On page four, #28 (see SBOH testimony); I might suggest breaking this term down to several terms for accountability and responsibility issues such as school board, superintendent, principal, and superintendent of public instruction. Also, it seems to me that #29 secretary is very much underused in this draft as health issues should be the responsibility of the Health Department.
- 120** The terms "low-lead" and "lead-free" as they have commonly been used by manufacturers, building codes, government documents, and other published material are misleading and have been a source of confusion. We propose that the term "low-lead" be used to designate pipe, pipe fittings, solder, and flux materials with not more than 0.2 percent lead. Fittings and components having up to 8 percent lead (defined as "lead free" by the USEPA) have a high probability of contributing more than 20 ppb lead to the sample early in its life and even after - extended use. Further, based on extensive field and laboratory testing for Seattle Public Schools, end-use plumbing fittings that contain not more than 0.2 percent lead will also release more than 20 ppb lead into water samples when these fittings are newly installed. The testing results also show that with time, the lead levels in water exposed to fittings with not more than 0.2 percent lead reduces significantly and the probability for consistently achieving lead levels less than 20 ppb becomes much greater.
- 120** *Recommended Revision:* (25) "Prioritized drinking water sites" means identified drinking water sampling sites whose intended purpose is to be a source of drinking water for school children and staff. Examples include any drinking water fountain; any sink or tap located within an elementary classroom; sinks in libraries or resource centers where children regularly assemble; nurse station sinks; teacher lounges; and kitchen taps that are routinely used for preparing food and beverages. Prioritized drinking water sites do not include sinks or taps whose primary purpose is for hand washing or, classroom instruction, such as sinks or taps in restrooms, science or home economics classrooms.
- Comments:* The current language seems to imply that testing can be done on a selected sampling of some of the sites, and is vague as to which sites should be sampled. This could lead to failure to test some relevant sites and would thus negatively impact public confidence that all likely drinking water sources have been tested.
- 120** Add definition for "pesticides."
- 120** Add IBC, NEC, L&I, WSSP, LEED, IES, etc., and coordinate with them to avoid duplication of jurisdictional authority and incorrect paraphrasing.
- 120** Portables: relocated vs. new and cost impacts of retrofitting
- 120** What does repair mean?
- 120** Clarify term "instructional area". Many rooms in school are not instructional areas; would these areas be exempt from DOH regulations?

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- 120 Define "minimum environmental health and safety standards."
- 120 Emergency shower definition is vague – 50' distance is another stipulation
- 120 Clarify "minor repair."
- 120 Add definition for "easily cleanable surface."
- 120 Page 3 – 20b – What all is included?
- 120 246-366-120 (20) What is the level of "minor" addition, renovation or repair to avoid being labeled "new construction"?
- 120 120 / Could EPA certified labs be added to the definition of "accredited"? Many of us who are located close to a border state use EPA accredited labs in Oregon or Idaho. Northern Idaho, for instance, has many good labs that serve the mining industry and are an integral part of the greater Spokane community.
- 120 120 / NC35 may not be the best standard to use in this new rule. Apparently EPA has a newer standard called the Industrial Noise Policy (INP). Table 4.1 "Amenity Criteria" lists the recommended acceptable noise level for school classrooms as "35 – 40 dBA for the noisiest 1 hour period when in use." I believe this is the same as the NC35 requirement – my comment here is to use the newer standard (INP) if EPA is moving away from using the NC35 standard. That being said however, whichever standard is used, it will be extremely difficult and expensive to meet 35 – 40 dBA in classrooms. The current standard of 45 dBA is attainable. 35-40 would be difficult, if not impossible, in existing buildings, and very expensive in new construction. I would ask if it is actually necessary to reduce the current standard of 45 dBA in classrooms? It certainly meets all of WISHA requirements for staff and does not seem to disrupt classroom activity currently. Is there "science" to support this change?
- 120 120 / Additional definitions that need to be added for clarification due to their use in the document – or limit their use so as to not need a definition.
"classroom" as used throughout and in 246-366-260(2)
"industrial classrooms" 246-366-260(3)
"general instruction area" 246-366-120(3)Table 1
"special instruction area" 246-366-120(3)Table 1
"non-instructional area" 246-366-120(3)Table 1
"gymnasium" 246-366-120(3)Table 1
- 120 Much of this is old language that should be cleaned up. I suggest you consult with OSPI and use terms that we can all understand and agree upon and then insert definitions so that all inspectors (school and health) will be speaking the same language...
- 120 Please define "excessive brightness." How bright is too bright? WAC 246-366-250(2)(c)
- 120 Page 3, Item 20b - Under definitions for new construction the phrase "repair, other than minor repair" was included with additions and renovations for redefining new construction? Who defines "repairs" and "minor repairs"? Are the Health Department's LHO's or designees technically qualified to evaluate the design of building system repairs?
- 120 Page 3, Item 20f - Under definitions for new construction portables installed after the effective date of this regulation would include portables already owned by the school district if relocated. This proposed revision would prevent the District from relocating 101 existing portables, requiring the purchase of new portables to meet the revised regulations for new construction.
- 120 In addition, as currently drafted, the School Facility Development rules appear to require that, with the trigger of any "new construction" activity as defined by the Proposed Rules, the entire school facility must be retrofitted to conform to the Proposed Rules. For example, the renovation of a school gym would apparently be deemed to be "new construction," and accordingly trigger the School Facility Development rules. Once triggered, the School Facility Development rules, in addition to containing requirements for design review and inspection, delineate standards that apply throughout the school facility. Only Proposed Rule 246-366-140, regarding science labs, expressly limits applicability of the section to when science labs are "developed as a part of new construction" or when an existing science lab is being remodeled. The Proposed Rules should specify when certain elements of the School Facility Development rules apply to a "new construction" project.
- 120 Section 246-366 120 (20) (b) Additions, renovation, or repair ... Minor repair is an ill-defined and subjective term. It would need to be defined under some objective measure, such as, square footage, cost, etc. Some repairs, such as replacing a boiler, can be very expensive and would be defined as a major repair. This should not trigger wholesale

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changes in the building to comply with the new construction standards. On the other hand, repairing the security system can involve the entire square footage of the building, but again, should not trigger needing compliance with the new construction standards. Mentioning repair as part of this section should be deleted.

- 120** Section 246-366-120 (20) (f) Portables installed ... The definition should be changed to allow for the present stock of portables in the state to be utilized. While we are not happy using portables over site-built structures, we must use them until our building programs have caught up. Many districts have sunk costs into these portables (\$70,000 to \$200,000 each) and move them as needs change within the district. Under the above rule definition in combination with daylighting, acoustical, and other requirements, this stock of portables would become non-compliant and valueless. Suggested change of language would be to specify "portables leased or purchased after the effective date of these rules".
- 120** Section 246-366-120 (24) "Portables" means ... The definition includes such buildings as our "emergency sheds". These are pre-constructed buildings transported to each school for storage of emergency supplies in case of a catastrophe. As such, they do not have heat, light, windows for daylighting, etc. However, as defined, we would need to add these to comply. Suggested change of language would be "...placed or assembled for students to occupy in an instructional program as part of a school facility."
- 120** Introduction: Our school program has reviewed the draft regulations and compiled our comments. Based on our experience, we have divided our comments into two groupings, giving the first group a higher priority. There are a number of sections in the draft regulations that were not discussed by the SRDC, such as the definitions, lighting, and sound control sections, and we have significant concerns with those sections. In our opinion, the definitions section is the foundation of the school regulations as it is referenced for applicability of the regulations and for interaction between local health jurisdictions and schools. Clarifying the definitions to ensure consistent application of the rule is our first priority.
- 120** Definition of "school facility" and "site" in conjunction with site approval, plan review/pre-opening, and inspections (WAC 246-366-120, 210, 220 410 & 420). Currently there is statewide inconsistency in application of the rule to alternative/non-traditional schools. The definitions need to be extremely clear as to whether or not alternative schools, in addition to tutoring facilities, bus barns, administrative buildings, offices, maintenance facilities, playgrounds, athletic fields, pre-K (when housed in a K-12 school facility), etc. are included as part of a school facility and/or site and when the construction/inspection sections apply. Examples: Does the LHO inspect a bus barn? Does the LHO review plans for a classroom addition that is designed to house pre-K but could at a later date be used as an elementary school classroom? What is required if we are made aware of a school after-the-fact (e.g., an existing preschool adds grades K-2)? It is our opinion that the same level of construction/inspection activities should not apply in all situations. Because the definitions have not been clarified yet the construction/inspection requirements increased, the inconsistency and negative impact on schools and LHO's will increase unless there is resolution.
- 120** WAMOA was asked to participate with the Department of Health in the drafting of the rules. We are grateful for that opportunity. One important issue that disappoints us is that there have been additional language changes since WAMOA participated on the panel. While they may be just a word or two here and there, one word in the right place can dramatically change the meaning of the rule. For example when the words new and construct are changed to repair, this dramatically changes the whole rule. When a rule now applies to a portable classroom and a district now finds it necessary to move that portable classroom even as little as one foot, the portable would then need to comply with the new standards.
- 120** 246-366-120 (Definitions and Acronyms) (6) Delete – refer to WAC 296.800.15030
- 120** 246-366-120 (Definitions and Acronyms) (7) Delete – refer to WAC 296.800.15030
- 120** 246-366-120 (Definitions and Acronyms) (10) & (13) Delete – The EPA has developed 3 guidelines for testing for lead in the water of Schools; the "3Ts 816-B-05-008, which recommends 8 hours before 1st draw; Testing Schools and Day Care Centers for Lead, which recommends 6 to 8 hours before 1st draw; and Sampling Lead in Drinking Water in Nursery Schools and Daycare Centers, where they recommend 8 – 18 hours before 1st draw sampling. This is just one of many conflicting recommendations from the three publications. Thus the reason the testing protocol needs to be in Guidance, not rule.
- 120** 246-366-120 (Definitions and Acronyms) (14) Redefine – Outdoor education, FFA farms, horticulture facilities, vocational education with on-the-job components are all considered "space intended for instructional purposes"
- 120** 246-366-120 (Definitions and Acronyms) (20 b) – Remove "repair" or clearly distinguish how to measure "repair" versus "minor repair"
- 120** 246-366-120 (Definitions and Acronyms) (20 f) – Clarification needed – Would moving an existing portable building from

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- one location on a school site to another location at the same school constitute “installed after effective date” (thus all of Section 2 would apply)?
- 120** 246-366-120 (Definitions and Acronyms) (24) Redefine – As written, a storage shed used for equipment or emergency supplies would be considered a “portable”. Suggest something to the effect of “used as part of a school facility for classroom, office or meeting space”.
- 120** If the rules stand as proposed, additional definitions will be needed: 246-366-230 (2) “control of dust and cleanability”
- 120** If the rules stand as proposed, additional definitions will be needed: 246-366-230 (5) “easily cleanable surface”
- 120** If the rules stand as proposed, additional definitions will be needed: 246-366-210 (3) “other applicable information”
- 120** If the rules stand as proposed, additional definitions will be needed: 246-366-250 (3) “eye discomfort”
- 120** If the rules stand as proposed, additional definitions will be needed: 246-366-270 (1) “temporary food events”
- 120** If the rules stand as proposed, additional definitions will be needed: 246-366-238 (6b) “water impervious nonskid floors”
- 120** Section 246-366-120 (2) should define “Health Room” as used in section 246-366-230 (7) and include a statement about minimum requirements for the room such as facility bed locked cabinets.
- 120** 246-366-120 (20) (b) Defines “New Construction” as “renovation, or repair, other than minor repair,” – this new definition significantly broadens the influence and scope of almost all other elements contained within this draft. (f) “Portables installed” – This would make relocation and use of an existing district-owned portable almost impossible. A portable more than one year old will not meet the proposed noise, lighting or daylighting standards. Criteria should be based on date of manufacture, not installation.
- 120** 246-366-120: (Paragraphs 6, 7, 10) – Since this section is definitions and Acronyms, it seems that the definitions shouldn’t contain technical performance data such as “20 gallons per minute”, etc. This type of technical information should be located within the body of the document.
- 120** 246-366-120: (Paragraph 13) – Suggest the term “sitting” be revised to “stored within”.
- 120** 246-366-120: (Paragraph 20, f) – It seems the use of “installed” defeats the purpose of portability and appears that it may be burdensome to the school districts. L&I already regulates construction of new portables. We feel the term “constructed” should be retained. Does “installed” apply to portables moved within a single site?
- 120** 246-366-120: (Paragraph 26) – Isn’t the original scope intent “public” safety? It seems that Private facilities should be exempted from these rules.
- 120** 246-366-120 Definitions and Acronyms. *The definition of “School facility” should be broadened to address how the rule would apply to alternative schools, home-link type facilities, pre-schools located in schools, etc.**
- 120** Add “shall” and “must” to the definitions, as defined on page one in “general notes”.
- 120** Add definition of Group B water system.
- 120** New construction: (d) needs to be rewritten so its clear that the conversion of existing structures, not merely that a structure’s conversion in the past, triggers the new construction provisions of the rules.
- 120** Easily cleanable should be defined as it relates to floors. Is carpeting easily cleanable?
- 120** We suggest that science labs be defined as they relate to the need for emergency showers and eye wash fountains. Is a physics lab a science lab that needs these facilities?
- 200** The applicability of the School Facility Development rules, as set forth in Proposed Rules 246-366-200 and 246-366-110(20), must be defined with greater precision. As currently defined, the School Facility Development rules could be triggered by something as simple as adding a closet in an administrative office or replacing carpet in a portion of school building. At a minimum, the rules should include defined terms for “minor repairs” and “minor modifications,” and should specify that such work is not subject to the School Facility Development rules.
- 200** 246-366-200 – Replace the word “proposed” with “built”. Many schools are proposed 12 – 24 months before plans are finalized, drawings and bid specifications are prepared, or contracts are awarded.
- 210** Proposed 246-366-210- Site Approval The primary responsibility for compliance should be placed on the school board not the LHO. Many times property is purchased that may be unsuitable for school development for many reasons and it should not be up to the LHO to argue the matter after the fact. The LHO does not have a magic crystal ball which enables them to determine if all sites would or would not allow development of a school facility!
- 210** Proposed 246-366-210- Site Approval Language change—“Before site purchase and new construction occurs, the

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School Board shall provide to the LHO documentation/certifications indicating the site in compliance with all applicable rules. Any costs related to LHO determinations shall be the responsibility of the school board".

- 210** Proposed 246-366-210- Site Approval Any sound reduction plan should be developed and certified by individuals professionally qualified to make those judgements!
- 210** Proposed 246-366-210- Language change—"Engineered/professional justification/certification must be included in any request for sound reduction submitted to the LHO".
- 210** 246-366-210 (2) include "samples of potentially contaminated soil are analyzed by an accredited laboratory for the ..."
- 210** On page six, 246-366- 210 #1 as brought forward from the workgroup and SRDC recommendations, playgrounds and sports fields should be added. Also clarify school officials.
- 210** 246.366.210 (1) We support the inclusion of the ESA by reference in this section. We think this is the appropriate protocol rather than including parts of the regulations of others within health department rules as is done in later sections. (3) This section should be removed. The department should not add steps to an already cumbersome approval process. It is questionable that an LHO or their designee will have the expertise needed to provide meaningful comment. The language also gives far too much discretion to the LHO. (4) The requirement is fine, the LHO approval is unnecessary. LHOs are unlikely to have the background and experience to evaluate the efficacy of the sound reduction plan. (5) A waiver process should be available for sites that don't meet all of the requirements of this section.
- 210** Phase 1 environmental site assessment for existing school sites that districts have owned for some time is unnecessary and different than buying new a site.
- 210** No discussion about cleanup, only LHO determination – need standards for cleanup.
- 210** dBA levels of section 4 questioned; where on a campus shall the requirement be met; is this health or safety or just good ideas?
- 210** Regarding noise measurements, interpretation of site sampling data and proposing and evaluating noise mitigation measures: qualifications of LHO are questionable and will add cost to projects.
- 210** 210 Item (1): Bethel School District agrees that a site under consideration should be required to do a Phase 1 ESA. However, on an existing school site where a Phase 1 ESA has previously been performed, construction on the site (i.e.; adding a portable) should not necessarily require a new study. Depending upon what type of land use prior the school acquiring property, or if the soil has become contaminated, investigation of the site would be appropriate and corrective action may be required. We believe that the LHO office should be informed if any contaminants are discovered and method of remediation.
- 210** 210 Item (4): The defined level of 55 dBA may place certain schools out of compliance and require very expensive or impracticable ways to control sound on some existing sites. For example, some schools near McChord Air Force Base will, according to a recent environmental study performed by the air force, be extremely out of compliance when airplanes land and take off.
- 210** 210 ESA / Some will object to this due to cost and time delays. Personally I strongly agree with the requirement. School districts should not invest 20 to 40 million dollars into any site that has not had a Phase 1 assessment regardless of how long the district has owned the site.
- 210** 210 ESA Soil Sampling / This is simply good common sense.
- 210** 210 LHO Site Review / I believe that this is a function of the Building Official. The Building Official will consult with planning and zoning and the LHO and any others s/he deems necessary. The LHO simply needs to ensure that the building official has performed this step.
- 210** Section 246-366-210 (2) If the Phase 1 ESA indicates that hazardous substances ... There are always some hazardous materials at any site, at least near background levels. The critical question is, "Is there evidence that they may exceed Model Toxics Control Act (MTCA) cleanup levels under the Department of Ecology?" Suggested change of language would be to insert 'above Department of Ecology MTCA or other applicable cleanup levels' after "If the Phase 1 ESA indicates that hazardous substances may be present".
- 210** Section 246-366-210 (3) Before new construction ... site ... LHO evaluate ... ESA Once a Phase 1 Environmental Site Assessment has been completed, it is under state Department of Ecology rules as to any actions to be taken or not

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taken on the site. Any input from the LHO would be moot from any cleanup agreement made between school officials and Ecology. This section should be deleted.

- 210** Section 246-366-210 (4) Noise from any source at a proposed site ... This section does not take into account the type of facility and any other measures that may be used to lessen the impact of noise on the students. There are some obvious architectural fixes to isolated noise problems such as placing the gym to divert noise away from the rest of the grounds. These measures are often not apparent in early planning and not usually classified as "sound reduction". This amount of noise is common in urban areas, though. As it may be part of the environment, the school district is the best judge of what may or may not improve learning. These levels have no bearing on health. Lastly, noise less than 85 dB is not a health nor safety consideration.
- 210** Maximum ambient noise levels do not take into account what a real life machine or wood shop is like, and prevent realistic preparation of the students for future employment.
- 210** 246-366-210 (4) Remove and place in guidance, reference to WAC 296.817.300.10
- 210** 246-366-220 (1) Amend "school board" to "school official". It is the school official who performs these tasks at the district level.
- 210** Page 6 SRDC Proposal 1A (2) Add especially in areas to be used for playgrounds and sports/playfields
- 210** 246-366-210: (Paragraph 4) – Site qualifications for noise is a school efficiency issue, not a public health issue. This requirement appears outside the scope and intent of the rules and seems burdensome to the school districts with sites already purchased. The Land Use or "Zoning" document, managed by a city or County (who are responsible for controlling the noise source) seems a more appropriate location for this regulation.
- 210** 246-266-210 (1) Remove "school officials shall ensure" this creates the potential for individual liability on the part of the school official.
- 210** 246-266-210 (2) Remove "school officials shall ensure that samples of potentially contaminated soil are analyzed for the likely contaminants". This is redundant with the next sentence requiring compliance with the sampling to comply with the rules and guidelines of the Washington state department of ecology.
- 210** My research is the study of sensitive land use patterns such as schools within proximity to urban freeways. Since children are most vulnerable to air pollutants, then schools sited within 150 m of an urban freeway should be avoided. Unfortunately, proximity of schools to high volume traffic is more common than realized.
- 210** 246-666-210 (2) Does not mention ground water. Should this be included here? .
- 210** My concerns are specifically related to the issue of schools sited within close proximity to high volume traffic. The draft proposal EIS guidelines primarily focus on previous use and soil contamination but offer little guidance on assessing the microscale air quality impact from high volume traffic. Since there is a large body of evidence on the adverse health effects on school children from exposure to traffic pollutants as a result of proximity of schools to urban freeways, then I would think guidance on proximity to high volume traffic would be a prudent environmental health and safety criteria. For those interested, California Senate Bill 352 addresses siting new schools within proximity to high volume traffic.
- 210** WAC 246-366-210 (3) This section better defines what is required for site review. Sites should be reviewed before remodel, or additions are made, reinsert "remodel, or additions to existing facilities" after new construction, and add "selection and" before development to assure sites can be approved prior to development.
- 210** WAC 246-366-210 (3) Before new construction, remodel, or additions to existing facilities occurs the LHO shall determine ~~that whether~~ the proposed development site does not present any conditions that would prevent development of a school facility on the site in compliance with these rules. The LHO shall use the results of the ESA and any other applicable information in the determination. The school board shall obtain written approval from the LHO for selection and development of the site, prior to submittal of construction plans for LHO review and approval.
- 210** This section works well for large school districts but puts a burden on the small private schools.
- 210** Who will be expected to conduct the Environmental Site Assessment (ESA)? Is this something that private consultants do or is the LHO expected to do it?
- 210** We currently conduct our site assessment for new school sites that provides information to the school district and OSPI, which indicates that the site meets noise requirements, can be provided water, and can be served by either a city sewer or an approved on-site sewage system. We will need to coordinate our review with the ESA and then make a determination of site acceptability.
- 220** I do believe that your agency is assuming more authority on school projects that will impact the Architectural and Engineering fess that are added to the Bond project costs. This will lead to inter-agency conflicts between Local Building

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Officials and the Local Health districts. Our local health district charges fees for their work as I'm sure others throughout the state do as well. These fees will be passed on to the district they serve. Without funding attached to these changes we will continue to be forced to do more with less. An example of this would be: **SRDC Proposal 2B. This rule change would add another Public agency in the design process. This change has cost associated with their involvement. These costs incurred by the A and E Firms would be passed on to the School District. The health department officials often do not have architectural and engineering backgrounds and conflicts between the building officials and the health dept will bog down the process leading to project schedules being delayed because of this additional agency involvement at the design development stage. My recommendation would be to leave the design decision making process up to those trained in the engineering field.

- 220** **SRDC Proposal 8E; Duplicating efforts by agencies is counter productive. One agency should not be overruled by another agency. Where conflicts arise, who foots the bill for the design changes that one agency requires while another agency disagrees with the requirement?
- 220** Proposed Rule 246-366-220(2)(d), requiring that the LHO review and approve temporary occupancy permits ("TOC"), duplicates the same review and approval performed by the local building official, as a part of the TOC process, must ensure that essential health and safety items have been constructed and installed. *See International Building Code* sec. 110.3.1; *see for example*, King County Code section 16.02.510(1) and Pierce County Code section 17C.20.010.
- 220** Proposed 246-366-220-Plan Review and Pre-Opening of Schools What is the definition of "early in the process"?
- 220** Proposed 246-366-220-Plan Review and Pre-Opening of Schools Language change—"Submit plans and specifications of proposed construction to the LHO prior to any permit issuance or construction occurs".
- 220** Proposed 246-366-220-Plan Review and Pre-Opening of Schools Construction should not be initiated until written approval by the LHO is received. Schools Language change—"No construction shall occur until the school board has received written plan approval from the LHO".
- 220** Proposed 246-366-220-Plan Review and Pre-Opening of Schools How can the LHO interact with the project design team early if they don't even know the school building is going to occur?
- 220** Proposed 246-366-220-Plan Review and Pre-Opening of Schools Language change—"It shall be the responsibility of the school board and project design team early in the development phase to interact with the LHO and local building officials
- 220** Sometime architects drop plans off to LHJs with only 2 weeks to review and is a problem.
- 220** 1. 366-220(1)(a) define when early in the planning process is a bit tighter.
- 220** 246-366-220 The paragraph would give the Health Department the charge with enforcing the building code. The building department already has that authority. We already have a case where the health official does not agree with the interpretation made by the building department and is trying to enforce a different interpretation. If given the authority, we will suffer from enforcement loggerhead. Also, since the health department has a different definition of "new construction", the health department will enforce the building code in cases where the building department waives as minor repair.
- 220** On page seven, #2 –A, replace "should" with "shall". 2-D, identify school officials.
- 220** 246.366.220 This section should be returned to its original form with the exception of housekeeping deletions which were moved to other sections of the rule.
- 220** Showing proof of connection to a public water supply. This happens during the building site stage prior to securing a building permit. However problems arise if dealing with a private well say for a Montessori or LHJ's may not be contacted depending on the county or if located within city limits.
- 220** The department should not seek to add an additional approval process to the review of designs and specifications. Interested and qualified LHOs can provide comments to building officials. Further, this section mixes recommendations and mandates. The LHO "should" interact, but "shall" provide a written report – even the required report mixes "required" and "recommendations" regarding the project. Any allowance for "recommendations" sets the stage for conflict between the LHO, the design team and the district's representatives. For example, the LHO may be of the "opinion" that carpeting is not appropriate in classrooms, but it may the District's standard for flooring to promote comfort and acoustic quality. Absent regulation or scientific proof to the contrary, the LHO's opinion is irrelevant and should not be

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- incorporated into reports to the board. Any written comments can be interpreted as requirements by casual readers.
- 220** Neither should districts be required to consult the LHO before obtaining temporary occupancy. In instances where temporary occupancy is necessary, time frames are tight and adding a bureaucratic step to the permission of the building official's review and approval could delay the start of school.
- 220** #2 qualifications of LHO questioned; a waiver process is needed; if this applies to ground water, it is too strict
- 220** #2 – this is duplicating and/or adding to regulations of other agencies.
- 220** #2 Requiring LHO approval to school boards is excessive. What will the qualifications of the LHO be? This will likely cause construction schedule delay and create an excessive cost impact to school districts, especially given the district time frames for construction.
- 220** #2: replace "school board" with "school officials"
- 220** Under Plan Review, 246-366-220 : replace "pre opening" with "pre occupancy"
- 220** No defined turn-around-time for LHO to render project approval to districts.
- 220** Obtaining temporary occupancy permit from local building official in order to open on schedule is difficult enough without adding approval from the LHO.
- 220** Section 246-366-220 (1) (b) Obtain written approval ... LHO ... plans comply What timeline is this to happen under? The window from approval to design to finish construction is usually quite narrow. If we are waiting on the LHO to finish their review along with all of their other responsibilities and get their approval letter, a lot of timelines can go seriously awry and this can mean serious sums of money. There are specific requirements that the building official follows to approve or remand plans for revision. These measures are not in place with the LHO. This section should be deleted.
- 220** Substitute "school official" rather than "school board" because board schedule will add 2 week delay to construction and school opening schedule.
- 220** 220 The Health Department should develop a checklist of concerns to be distributed. School district's, at their option, may ask the LHO to provide preliminary review of school plans.
- 220** 220 School district's, at their option, may ask the LHO to provide preliminary review of school plans.
- 220** New Construction Plans.... Plans need to be to the health department earlier in the process.
- 220** 246-366-220 Gives the Health Dept authority in conflict with the building department. There would be a need for clarification. Many of these proposed regulations come in conflict with IBC, NEC, L&I, WSSP and LEED.
- 220** 220 / Should be called "Pre-Occupancy inspection" as in 2(c) below
- 220** 220 Temporary Occupancy Permit / I think a local Building Official could do this. The question is; will they do this? I think the answer is; "some will and some won't." I don't think the SBOH can require the local Building Official to enforce a DOH regulation. It would be a better approach to include the LHO requirement into the WAC and give the LHO a way to withhold occupancy until s/he was satisfied that the requirement was met or would be met. DOH and the LHO should enforce their own rules and regulations and not expect others to do it for them; i.e., Building Official, Fire Marshall, School Administrator, etc. And if others already have a rule, DOH and LHO should not duplicate it in this rule because that could result in one code official approving something and the LHO disapproving the same item. How will anyone defend that position in an appeals hearing or court procedure? And what will that do for cooperation between public officials?
- 220** Page 7, Item 2a - The Local Health Officer (LHO) or his/her authorized representative should interact with the project design team and coordinate with the local building officials in the design development phase. This will add time and cost to the design process with minimal to no added benefit. Page 7, Item 2 Facility Design - General. "School facilities must be designed to allow for the control of dust and cleanability." How is dust and cleanability defined? OSHA rules state airborne limits in the workplace for many contaminants, does this new proposed rule include all particulate in the air? How does one control dust in the design of a facility? Does the requirement to control dust in the design of a new facility conflict with the recommendations for operable windows per the Washington Sustainable Schools Protocol?
- 220** Further exacerbating the adverse fiscal impact is the reality that school district personnel will have little to no control over

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the significant construction delay costs that may result from delays in the plan review process, the amount of time that inspectors spend reviewing plans, or the amount of time that inspectors spend at schools for annual inspections. Local health departments, who also lack resources and funding, generally bill school districts by the hour for inspections and plan reviews. School districts will have no ability to budget for or control these costs. The Proposed Rules must consider methods to implement the Rules efficiently so that school districts can control costs and can open schools in a timely manner.

- 220** In order to achieve this efficiency, the role of the LHO should be coordinated with, not separate from, the review process of the permitting agencies. While the Coalitions understand the benefits of having the LHO involved in the plan review process, we have several concerns with respect to the language contained in Proposed Rule 246-366-220. First, this section appears to establish a review and approval process that is separate from that process required by local building codes. Not only does this create an additional and unnecessary bureaucratic layer and potentially duplicates the review by the permitting agency, it also increases project costs and impacts project timelines. The Proposed Rule should, at a minimum, be revised to clarify that the LHO's review is intended to be coordinated and integrated with the review of the local permitting agencies.
- 220** In addition, we suggest that the Proposed Rule 246-366-220 be revised to recognize that many school districts employ professionals experienced in school planning, design, and construction. As a matter of practice, these staff members are involved in a school construction project from start to finish, and are the most cost-effective means of providing oversight and communications between the district and permitting agencies. In addition, school districts contract with licensed architects for the purposes of preparing plans and specifications. The school district architect and project team are in the best position to provide local health jurisdictions with the information needed to ensure compliance with school environmental health standards. Indeed, the Proposed Rule should recognize that these staff may be able to follow a checklist prepared by the LHO to address health and safety requirements. School districts could take this checklist and use it to provide the local health department with supporting material from the project. As a part of this certification, school districts could attach approvals received from other entities (permitting agencies, fire inspections, etc.) for the same task item.
- 220** Section 246-366-220 Plan Review and Pre-Opening Inspection ... This entire section asks more of LHO's than many are likely able or funded to provide. There is a reason that school districts employ professionals in various disciplines to design and engineer their facilities. To expect more from the LHO relies on more than I can fathom. Any rules about various system capabilities, materials to be used, various safety appurtenances available, need to be specific and issued as a set of requirements. They cannot be left to the overworked LHO with little or no training or experience in these areas to understand and grasp the entire facility plan and issue revisions to the specifications in the short time frame usually available.
- The determination of the above standards should be left to the professionals in their fields and organizations. Then, these peer-reviewed standards can be cited in rule. An example is WAC 51-13, in which it refers to ASHRAE standards. It will be much easier on the LHO if the school district and/or its contractors are required to provide certifications at each step that the design and construction fully implement the requirements of each recognized standard. Then, it becomes the district's responsibility if item(s) are overlooked and need to be implemented after the fact.
- 220** There is also the issue of timeliness. Most school construction projects are on an extremely tight schedule and delays in project steps mean substantial increases in costs to meet deadlines. While we certainly would value timely input on design deficiencies, section 246-366-220 (1) (b) should be deleted.
- 220** Section 246-366-220 (1) (a) Submit plans and specifications ... to the LHO early... This section duplicates the local building official's (LBO) jurisdiction. We are obligated under these circumstances to take direction from the LBO, who is not under obligation to take input from the LHO. Additionally, at what point will all of the LHOs be able to read and interpret specifications in architectural drawings? At that point, this may possibly make sense.
- 220** Section 246-366-220 (2) (b) Shall provide a written report to the local school board ... This section is unclear when the report is to be submitted to the school board and as to what action, if any, is to be taken. In addition, is this a chance to complain that no one listened to the LHO or is it a list of citations to be issued? Either a building is in compliance as drawn or it is not; there is no room for second-guess recommendations. Delete section iii.
- 220** Section 246-366-220 (2) (c) Shall conduct a preoccupancy inspection... This is the purview of the LBO and redundant.
- 220** Section 246-366-220 (2) (d) If a Temporary Occupancy Permit is requested... This is the purview of the LBO and redundant. The LHO can seek hearing with the LBO to make their case for any special circumstances. It should be the judgment of the LBO if the case is valid under their requirements which they have authority to administer.

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- 220 Plan Review and Pre-Opening Inspection of Schools (WAC 246-366-220). Although we agree that it is ideal for the LHO to interact with the project design team and coordinate with local building officials early in the design development phase, it is often out of control of the LHO. Why is this recommendation in a rule?
- 220 Issuance of a Temporary Occupancy Permit: In practice, it is not likely that this WAC will be equally binding for both the Building Department official and LHO, even if they jointly review and approve the school official's written plan to correct deficiencies identified by the LHO. It might be better to explicitly require school officials to submit a written plan "with timeframes for meeting or correcting the identified concerns" to both the building department official and the LHO. The timeframes specified in the plan may not exceed the expiration date established by the Building Department for the Temporary Occupancy Permit. In instances where the Temporary Occupancy Permit is issued without an expiration date, corrections must be completed within 12 months of the date the permit is issued. The LHO should review and approve these submittals as a continuation of the plan review process.
- 220 There were a few key proposals made during the SRDC Committee meetings, where the majority of the SRDC committee voted to establish proposed changes as "guidance" versus "rule", yet in this draft, they appear in Rule. 246-366-220 (2a) (SRDC Proposal 2B & 8E) and 246-366-220 2(d) (SRDC Proposal 8B; Plan Review, including LHOs in this process
- 220 Add Soil remediation as needed will be integrated into school design and construction planning.
- 220 (1) (c) Add SRDC Proposal 8A Commissioning Reasoning: Commissioning has been a problem in schools such as Cle Elum and was listed in the Attorney General's report in 1995. This is a no brainer.
- 220 Page 7 (d) Specify how long is temporary Reasoning: Cle Elum has a temporary Occupancy Permit for years. Temporary 30 or 60 days?
- 220 (e) Add SRDC 8E To assure that building codes and health protections.....
- 220 Page 9. SRDC PROPOSAL 8D WAS OMITTED Recommend that DOH upgrade guidance regarding ventilation systems to include references to the Current ASHRAE 62.1. Voting Rule 21/2/0
- 220 (8) Add SRDC proposal 9B Existing school facilities are to undergo HVAC.... Reasoning: Should be in rule.
- 220 246-366-220 Is the intent to establish the LHO as a integrated part of the design team? Why should the LHO be involved in the approval of a temporary occupancy permit when the local building official is already charged with that responsibility?
- 220 246-366-220: (Paragraph 2, d) – This appears to be a duplication of building department responsibilities already in place. LHO should be available to the local building official if concerns arise.
- 220 What data do we have that local health districts and/or health officers have the special knowledge to read plans or know the specifics about construction and indoor air quality? I think this should reside with the state, and enlist expertise from L&I, and specialists in IAQ.
- 220 246-366-220 (1) (a) Should define "early"
- 220 246-366-220 (7) There Is no mention about the use of pressure differentials or zonal isolation to control for infectious disease spread.
- 220 246-366-220 (2) (a) This section suggests LHO should interact with the project design team and coordinate with the local building official early in the design development phase to address potential health and safety issues in a timely and cost effective manner. This rarely happens and would add additional expense to the plan review.
- 220 246-366-220 (2) (b) The approval letter should itemize any conditional approvals.
- 220 246-366-220 (2) (b) (iii) Delete the line. Health departments should approve, ask for corrections, or disapprove plans. Designers make recommendations.
- 220 Keep wording consistent. Use pre-opening inspection or preoccupancy inspection.
- 220 Many design features are difficult to inspect or verify at the pre occupancy inspection. Add:
Upon completion of construction, modification, or alteration and before the pre-opening inspection, owners shall: (a) Submit to the department or local health officer a construction report signed by an engineer or architect stating that to the best of the engineer's or architect's knowledge and belief, the installation is in compliance with the approved plans. The engineer's and architect's certification of the above condition in no way relieves any other party from meeting requirements imposed by contract or other regulations, including commonly accepted industry practice; and (b) Notify the department or local health officer at least five working days before intended use of the facility.
- 220 We will need greater coordination with the local building officials and the school district when a temporary occupancy

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permit is granted. In the new language the school officials must submit a written plan addressing the health and safety concerns identified by the local health officer and that plan must be approved by both the local building official and the local health officer.

- 230** Proposed 246-366-230—Facility Design---General Comments-Emergency shut-offs aren't much good if they are not accessible. Many times you can't find or reach them in an emergency. (b) "Have emergency shut-offs for water, gas and electricity which are easily located and accessible".
- 230** There is overlap with the design requirements with OSPI so why include it if OSPI already covers it in their requirements?
- 230** Does cleanable surfaces mean no carpets?
- 230** The statement to comply with State building code seems redundant, as this is already required by the State building codes. Is the LHO now going to take responsibility for the entire project complying with the IBC, IMC, IFC, UPC, etc. etc. Should not the LHO stick to the health aspects?
- 230** 246-366-230 (11)(b) – emergency shutoffs for water, gas and electricity need to be installed for science labs – they should also be easily accessible. (not accessible by ladder by removing ceiling tiles as I found recently on some new construction)
- 230** The requirements for each "Science Lab" to have an emergency eyewash may or may not be correct ("correct" in the sense of what really is needed). I have seen spaces titled "Science Labs" that were used for pure book learning (e.g. astronomy) or simply full of computers (used for "science" applications. These rooms had nothing in any way that would require an emergency eyewash/shower. I recommend either changing "science lab" to be "rooms that handle hazardous materials (i.e. chemistry, biology...etc.)...", or add a definition of what a "science lab" is back under the definitions section. Owners may simply start re-naming rooms to avoid the requirement (which in some cases may be perfectly appropriate).
- 230** Emergency eye washes are very important and because they are rarely used, why have the expensive of having them hard plumbed? Why not have a portable containment system to catch the contaminated water?
- 230** Section 230(2) page 7 language is vague as it pertains to "control of dust and cleanable" – what does this really mean?
- 230** Section 230(10) page 8 language is vague as it pertains to "prevent infestation of insects....." What does this really mean?
- 230** 366-230(2)clarify what "designed to allow for the control of dust and cleanability" means
- 230** 366-230(3) I couldn't understand why the minimum ceiling height was eliminated. Some rooms, like science and shop, do need a minimum ceiling height requirement specified. Was it moved elsewhere?
- 230** 366-230 - Needs to include "chemical storeroom and chemical preparation areas"
- 230** 366-230(11)(a)- Recommend change to "Have a properly drained emergency eyewash fountain and also an emergency shower with a plumbed drain of sufficient capacity and design to properly drain all shower water. In our district almost all of our showers either have no drains, or the drain can't handle that amount of water coming out for even a minute without flooding the room, the hallway and adjacent rooms. Just think about the practical implications of a base spill on a student, flooding of the room and hall, and classes changing all at once.....!
- 230** ----There should be some requirement for a minimum water temp for emergency wash devices.----
- 230** 366-230(11)(b)- These shutoff controls should not only be present, but be readily accessible, and have signs indicating where they are. We are placing them all at one of the two exit doors in our labs.
- 230** We are concerned that duplicate rules and roles will further delay an already lengthy design and permitting process. We believe that the most qualified and experienced agencies should review school designs and specifications and we do not support adding steps to the approval and temporary occupancy processes.
- 230** The requirements that the LHO participate in design and specification development and review – including the requirement that the LHO approve temporary occupancy - should be removed. We assert that the addition of another layer of review – especially by a person untrained in building design and specification will add to the administrative burden of constructing schools and may result in unnecessarily delays without adding value to the design.
- 230** 246-366-230 There needs to be a general statement regarding the site development in reference to general safety

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- hazards such as retention ponds, holes, requirements for barriers to certain outside hazards (dumpsters, propane tanks, etc) OR are these addressed in other codes – building codes, etc????
- 230** On page eight, 246-366 -230 #5 replace “must” with “shall” and define easily cleanable. #7, “If Health Rooms” should change to “health rooms shall” be proposed.
- 230** At this time I will point out that design, according to regionally appropriate standards, should be in Rule as strongly supported in Workgroup recommendations, 17/4/0 and still evenly supported by SRDC, 7/1/8.
- 230** The very vague wording about “easily cleaned” flooring has me concerned.
- 230** 246.366.230 Language in (9) could be clearer. Regulations should be age appropriate rather than “one size fits all.”
- 230** #4 this is stated in another regulation.
- 230** Building pest proof buildings is not possible.
- 230** Clarification of “remodeled” needed for requirement of new drainage for safety shower.
- 230** Providing emergency eye wash at all science labs where it used to be only chemistry is questioned.
- 230** Section 9: fall distance of 30” – does this mean from furniture, does age-appropriateness matter?
- 230** Areas in this section are in conflict with other codes and regulatory agencies.
- 230** #8 is redundant because it is already in the code.
- 230** Conditions required for athletic drying rooms excessive.
- 230** Retro-fitting emergency showers and drainage at each science lab is expensive and necessity is questioned.
- 230** Require emergency shut-offs to be easily accessible – not behind locked closets.
- 230** Staff needs to be properly trained to use eye wash and emergency showers. Why are these plumbed in? If it's a hazardous chemical, we don't want it in our drains.
- 230** Page 7 – 230-2 – What does that mean?
- 230** 230 Item (2): School facilities must be designed to allow for the control of dust and clean ability. This is a worthy goal. Developing examples to define the intent more clearly will help during the design process.
- 230** 230 Item (4): There are many products out on the market that could be used to address this concern. However, examples of what would be acceptable should be provided.
- 230** 230 Item (5): This needs to be defined. Does this mean only vinyl tile floors are acceptable, or will a better grade of carpet in which water cannot penetrate the backing be acceptable?
- 230** 230 Item (6): This is open for interpretation. This should be defined more clearly with examples of what is needed.
- 230** 230 Items (7): This is open for interpretation. This should be defined more clearly with examples of what is needed.
- 230** 230 Items (8 & 9): Requirements for safety hand railing are addressed in the International Building Code.
- 230** 230 Items (10): This is a worthy goal. It should be clearly defined with examples of what is needed.
- 230** 230 Item (11): This is addressed under the International Plumbing Code.
- 230** The comment that the floors throughout the school facility must be rather than shall have a cleanable surface is just one of many subjective opinion left open to the LHO. There is a place in schools for carpet (Warmth, acoustics and it is cleanable)
- 230** 246-366-230 (5) What is the definition of an "easily cleanable surface"?
- 230** 246-366-230 (8) and 380 (2) are duplications as they both require safety railings on floor pits and both speak to following L&I core rules which state the same.
- 230** Under the water quality section 246-366-230, there should be consideration for arsenic testing as well as lead testing.

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Some areas of Washington have elevated levels of arsenic in ground water due to the sub surface nature of our geology – that being volcanic basalt. Depending on the source of the water for an individual school, arsenic could be a potential issue. SW Washington has several instances of extremely high arsenic levels. In the past few years, EPA lowered the arsenic standard to about 10 ppb.

- 230** Under the discussion of new / renovations, etc. there should be a discussion of asbestos. Asbestos is still in use today and certain building and construction products are currently manufactured with asbestos. Older schools may be more at risk because of higher usage of asbestos containing products during the period when they were constructed. There are federal EPA rules that regulate asbestos containing products and how they are handled, especially for renovations and construction activities that may involve a limited amount of new construction that ties into existing structures. These federal rules are generally implemented by the local clean air agencies and the Department of Labor & Industries.
- 230** 230 Building code compliance / This is already a requirement for all construction. Why re-state it in a health rule?
- 230** 230 Control of dust / I don't know what this means in terms of satisfying an inspector who might say I'm out of compliance if I say I'm in compliance. Try to re-state this in words that mean the same thing to anyone who reads it. "Cleanability" isn't even a real word! "Control of dust" – what's that mean? This reads more like a textbook or training program, not an enforceable rule.
- 230** 230 / An "easily cleanable surface" – what's that mean? Does it include carpet? Please state what you mean here in more definite terms.
- 230** 230 / Health rooms / "...visual supervision and confidentiality of room occupants..." This could be interpreted as contradictory. Sick rooms in schools are usually located near the front office where the secretary at the front desk looks in on sick students occasionally. Some newer rooms have a window that the front desk secretary can look through. However, in many cases other persons walking past the front desk can also look into the sick room – does this violate the "confidentiality" of the sick student? As far as student information is concerned, HIPPA is in place in all schools. If that is what you mean by "confidentiality" please spell it out.
- 230** 230 floor pits / It used to be in the code that stages have a traction strip across the stage approximately two feet back from the edge. This "warning track" should be retained in this rule in addition to the railing. When the railing is removed for performances, the students in the performance should be able to "feel" the warning track with their feet (to prevent walking off the edge of the stage) just the same as baseball outfielders have a warning track of soil (between the grass and the wall) to prevent injury from running into the outfield wall. There is a possible contradiction between this paragraph and the next paragraph. WAC 296-800-26005 requires protection from 4 foot drops. The next paragraph cites 30 inches as the protection threshold. Both paragraphs should make the same requirement; either 4 feet or 30 inches as long as it does not contradict the 4 foot standard of WISHA. By the way, I agree with this requirement. We have had two claims in the past week relating to falls from stages at two different schools, one an employee and the other a student) both when the stage was not in use and the auditorium was dark.
- 230** 230 Emergency eye wash / In existing buildings we often install a new eyewash without a drain and simply put a bucket under the new eyewash unit. (e.g., this might be in a shop area that has a concrete floor and where the water would flow to another drain without causing any building damage) Eyewashes cost \$50 and drains cost \$5,000. Of course in new construction a drain should be provided, but what if an additional eyewash is required in the future? This requirement would seem to prevent that unless a new drain was also installed. For health and safety requirements you should require an eyewash and or a shower wherever necessary but please omit the drain requirement from this rule to allow flexibility with compliance. In many cases the drain will not add anything to the health and safety of the user.
- 230** 230 emergency shut offs / Are you requiring these shut-offs to be in the room? The answer should be "yes." Shut-offs in the boiler room do not help if there is an accident in the science room. Proposed added language: (c) Shut-off shall be identified with signage for immediate identification during an emergency.
- 230** Providing emergency showers and drainage at each science lab is expensive and necessity is questioned.
- 230** I suggest inclusion of a requirement that the supply line to the eye wash be constructed to prevent electrolysis. This is a major source of rusty water in eye washes.
- 230** Proposed Rule 246-366-230(8)-(9) and Proposed Rule 246-366-280(2)-(3), regarding facility design and safety, contains standards that are governed by the IBC.
- 230** The requirement for drains contained in Proposed Rule 246-366-230(11) conflicts with the requirements contained in the Uniform Plumbing Code, RCW 19.27.031.

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- 230** Concerning proposed # 246-366-230 #1 Why would there be a rule saying you have to comply with another rule that you already have to comply with? #2 Schools must be designed to allow for the control of dust and cleanability- What does that even mean? Are they talking about tile instead of carpet? Why not say that? Are they talking about filters or HEPA filters again why not say that? Who is going to be doing the interpreting on these new proposals, is it going to be consistent state wide? #5 What do they mean by easily cleanable surfaces for floors, are they again referring to tile floors? Why not say hard surface floors? This will of course raise the noise level in the classrooms, which are already close to or already out of compliance because we worked hard to stay in compliance with the air flow rates to keep CO2 down. #8 Again, making a rule that you must comply with another rule seems redundant. #9 Any surface at 30 inches and above includes some teacher's desk, small bookshelves, countertops, all accessible by children must be designed to prevent unintentional falls? I think these proposals have good intentions but need more thought put into them and have the wide scope of interpretation narrowed so that two different people could read them and not have wildly different views and both be right.
- 230** Section 246-366-230 (1) Proposed new construction must comply ... building codes Statements of redundancy do little more than waste paper and time. Why are we being told we need to obey another entity's rules, when it would already be made known to the school district and its contractors by the LBO? Ignorance of the law has not been a valid defense, and should not be proven ignorant by multiple citations in other regulations. Delete section 1.
- 230** Section 246-366-230 (2) School facilities must ... allow ... control of dust ... We all want schools to be clean. Then we should say so. Suggested language is, "Schools should have interior surfaces designed to be readily mopped, wiped, or vacuumed as needed." No more packed earth floors with straw. The current language is poorly defined and open to arbitrary interpretation and enforcement.
- 230** Section 246-366-230 (5) The floors ... must have an easily cleanable surface. If above language utilized, delete. If not, delete as meaningless.
- 230** Section 246-366-230 (6) ... sufficient space provided for storage ... well-lighted, heated and ventilated. The requirement that any and all equipment have a nice home is overboard. There is much in the way of athletic equipment that, although it may need to be kept dry, does not need heat for longevity. Track equipment is commonly left in unheated spaces. These spaces are not meant as student instructional areas and should not meet these standards. In addition, it is much more convenient in some vocational needs to have open-sided buildings to house parts of the curriculum. Suggested language would be, "There must be space provided for the storage of outdoor clothing, play equipment, and instructional equipment to allow all required accesses and egresses to remain free of clutter. In addition, those spaces housing student clothing or other items deleteriously affected by lack of heat or ventilation have these provided as applicable under the appropriate standard. In addition, if it is expected that students or staff enter these areas in darkness, that light be provided meeting appropriate standards."
- 230** Section 246-366-230 (9) Any surface ... designed ... unintentional falls. "Any surface..." is too broad. It must be remembered that the CPSC defines an accessible surface as two inches by two inches with a slope less than 30 degrees. The proposed statement also includes all interior spaces. There are many surfaces that creative students can access which were not designed to be accessible. These include lightshelves, two-inch masonry ledge effects, roofs, etc. This rule treats them all as the same. We try to design our buildings as unaccessible, except for where we want them accessed. Sometimes, we are reasonably successful. However, this is a serious liability problem when such a standard is on the books and a student injures themselves recklessly. This wording also implies that CPSC-compliant play structures and padding must be modified. After all, they are only set up to minimize the damage from a fall, not to prevent the unintentional fall. If the aim is to talk about landscaping, then keep it within landscaping. Suggested language is, "Landscaping should be designed to minimize potential vertical fall areas above 30 inches. If such a fall area is created, then it must be protected by a fence or other modification to prevent unintentional falls."
- 230** Section 246-366-230 (11) (a) Have ... eyewash fountain and an emergency shower If chemicals are to be utilized in the space, then it should be designed for this use. There are many sciences which do not utilize chemicals at the grade level being taught, and many not at any level. Schools should have the flexibility to include these types of activities without designing additional support structures which are not necessary. An example is geology. Most geology, and especially at the middle school level, can be taught entirely without chemicals. Why should it be in a lab with shower and eyewash? Most early botany/zoology is taught under the microscope and does not utilize formalin or similar materials. Seismology and volcanology are additional examples pertinent to our area. In addition, we are in the design section, which already states that it is applicable to new construction or renovation. The redundant phrase "as part of new construction, or existing..." should be deleted. Suggested language is, "Each science lab where hazardous chemicals are likely to be used, must". The IBC has instances where floor drains for eyewashes are not allowed. The wording, "properly drained", should be moved to only include showers.

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- 230** Section (11) should be broadened to include shops, theater scenery shops, art rooms, and other areas where chemicals are used or stored that might necessitate an emergency eye wash, emergency shower, and emergency shut-offs.
- 230** There are several middle schools that have laboratories but do not store or use chemicals requiring either an emergency eye wash or emergency shower. It is our understanding that the Department of Labor and Industries uses the information contained on the Material Safety Data Sheet for each product stored or used on the premises to determine whether an emergency eye wash or emergency shower should be required. If the MSDS recommends accessibility to an emergency eye wash and/or emergency shower, then they require them. If the school chooses, at a later date, to store or use chemicals necessitating access to an emergency eye wash or emergency shower, appropriate emergency equipment must be installed before the chemicals are purchased.
- 230** Requiring emergency eye wash fountains and emergency showers to be properly drained is a good idea, since it is very difficult to test or regularly activate them when they are not drained properly. Does this mean that emergency eye wash fountains must be directly plumbed to waste? That should be clarified here.
- 230** Section 2 (11) says that "each science lab" that is "being remodeled" must have an eyewash station and emergency shower. In reality the eyewash station and shower is needed only where hazardous chemicals are used, not in physical science labs.
- 230** Requiring schools to be constructed to be pest free is close to impossible. The Department of Agriculture already has guidelines in place that school districts must and largely do follow. Adding more guidelines or requirements from the Department of Health would certainly seem unnecessary.
- 230** 246-366-230 (d) Remove and place in guidance, if approved by H&S Guide committee
- 230** 246-366-230 (1) Remove.
- 230** 246-366-230 (6) Remove "heated". There is no need to head physical education play equipment and outdoor clothing.
- 230** 246-366-230 (8) Remove – included in WAC 296-800-26005, and UBC and IBC codes
- 230** 246-366-230 (9) As written, this is an impossible rule to comply with. Trash dumpsters, landscaping adjacent to retaining walls, baseball dug-outs, storage sheds are just a few structures in excess of 30". Children will climb upon any surface, regardless of height or design.
- 230** 246-366-230 11(a) Remove, already addressed by WAC 3296.800.1503. Drains are not needed to comply with effective eyewash and emergency showers. There is very little cost associated with the clean-up a water spill, versus the substantial costs to install drains (which would require separation tanks).
- 230** Additionally, in proposed section 246-366-230 (10), there should be guidelines included on what it means to design school facilities to "prevent infestations of insects, rodents, and birds." Significant literature exists on how this can be accomplished; some specific requirements and guidelines need to be included here.
- 230** How will DOH ensure that, indeed, school facilities are being "designed to prevent infestations of insects, rodents, and birds?"
- 230** Section 246-366-230 (2) should include a statement that schools should provide a cleaning plan. Flooring and other surfaces must have specifications that would include approved cleaning techniques and specific cleaning frequency. The cleaning plan would also include the type of carpet stain guard used or the type of stain remover to be used. Flooring materials must include an estimated length of use, and schools should plan to remove flooring at certain intervals.
- 230** 246-366-230: (Paragraph 2) – This statement does not appear to be defined. Is this referring to surfaces or positive pressurization, etc?
- 230** 246-366-230: (Paragraph 5) – "Easily Cleanable surface" needs to be defined. Does this eliminate carpet? This statement should be removed.
- 230** 246-366-230: (Paragraph 9) – Seems this statement should be in the Building Code.
- 230** 246-366-230: (Paragraph 10) – The term "Prevent" seems excessive, not sure if any building can prevent infestations. Should consider revising that term with "limit" or "minimize".
- 230** It is important that there not be two rules addressing the very same issue (i.e. eyewashes, showers, science lab safety). If the DOH requires a rule be in section 246-366 to provide over-site by the LHO's for school students, then reference the existing L & I WAC, rather than try and recreate something that looks like the original, but isn't the original. School administrators must follow all rules. If they conflict or differ, the potential for liability is created, for failure to comply with both (which may be in conflict).
- 230** 246-366-230 (7) Potential liability concern over supervision, when attempting to balance "confidentiality of room occupants" with the need to see students in the health room, without necessarily requiring staff to be in the room at all

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- times (i.e. secretary sees through health room glass window adjacent to her desk).
- 230** 246-366-230 11(a) Potential environmental liability, if drains are constructed to permit chemicals to enter sewer systems. Drains are not necessary. Let building codes direct drain requirements.
- 230** Proposed changes 246-366-230 Facility Design—General (12) School facilities must be designed to provide safe motor vehicle drop-off and pick-up locations for student arrival and departure.
- 230** 246-366-230 Facility Design-General. *Section 2 requires schools to be designed to allow for the control of dust and cleanability. Are there standards for this. If there are not, it may be difficult to apply these standards and lead to inconsistency in plan reviews around the state.**
- 230** 246-366-230 Facility Design-General.* Section 11 requires each new or remodeled science lab to have properly drained emergency eyewash fountain and an emergency shower. Do these facilities have to be plumbed? It seems like some science rooms with very limited chemicals may be able to get by with portable units.
- 230** 246-366-230 (2) Add: Classroom furniture, including donated furniture, must be designed to allow for the control of dust and cleanability.
- 230** 246-366-230 (5) Add "water impervious" to read "The floors throughout the school facility must have an easily cleanable, water impervious surface."
- 230** 246-366-230 (11) Section should be expanded to include all student areas with chemicals or procedures that would require emergency eyewash fountain, emergency showers, and emergency shut-offs for water, gas and electricity consistent with Labor and Industry Regulations. Section should not be restricted to "science lab".
- 230** Does the control of dust and cleanability refer to filters in a HVAC system or smooth, non-porous floors instead of carpet, or something else? It would help if this topic were better defined or explained.
- 230** The rules should be more specific regarding what is meant by easily cleanable floors. Many are expressing concerns about carpeting in schools. Is carpeting easily cleanable?
- 230** Add to the 230 subsection: **Facility Design – General** School facilities must be designed to provide safe motor vehicle drop-off and pick-up locations for student arrival and departure.
- 240** **SRDC Proposal 3A; The DOH assumes that mechanical systems can be defined in a very narrow way. Unfortunately there are numerous mechanical systems that could not be used if this rule is adopted. Restrictions in mechanical design would ignore time tested systems that have sound engineering research by reputable engineering labs. Restrictions on design generally translate to more expensive solutions. Conflicts in energy conservation techniques and acoustical design properties need to be resolved prior to this rule change.
- 240** The requirement for "smooth, non-friable and cleanable.." interior duct surfaces--does this preclude the use of duct lining? It certainly should not. Perhaps a note should be added "fiberglass or other interior duct liners may be used provided the side in contact with the airstream is coated to comply with this section (i.e. to be smooth, non-friable and cleanable)in accordance with applicable SMACNA and ASHRAE standards". How "cleanable" duct lining is, is debatable, as it can be damaged, but repair coatings are available.
- 240** Some shop areas are heated with radiant heat systems and the measured air temperatures are approximately 60 deg F. The perceived temperature is higher as the body is receiving radiant heat. Suggest that an exception for radiant heated spaces be added (or radiant heated shop spaces).
- 240** Why is there no maximum temperature? Spaces could exceed 100 deg F at certain times of the year and certain applications/locations. At such high temperatures, if ac is not deemed necessary, then how about operable windows, or fans to add air movement? This standard should be balanced in the environment being required, and if dBA 40 is required then why not set a maximum temperature? Is not excessive temperature disruptive to learning and potentially unhealthy? If acoustic treatment is required, sun shading is required, etc., then maybe air conditioning should be required where it cannot be demonstrated that indoor temperatures will not be kept below a code maximum.
- 240** Why no level of filtration required? Recommend MERV 13.
- 240** Section 240(3) page 9 language is vague as it pertains to "prevent intake of....." What does this really mean? How do you meet this standard?
- 240** 366-240(6) should add "Chemical preparation and storerooms" to this language. They have unique ventilation needs beyond science labs.
- 240** On page nine, 246-366- 240, this section needs editing from "must" to "shall" with a responsible party identified.

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- 240** 246.366.240 (2) I am assuming that the intent of this section is to facilitate easy duct cleaning and/or eliminate the possibility of air borne fibers. Duct cleaning is expensive and of dubious value while lined ducts can improve acoustics. Districts need to be able make decisions about these trade offs at the local level.
- 240** The idea behind (3) is admirable, but the language is too restrictive to be practical.
- 240** #3 could mean building schools must be built like a clean room; does this prevent operable windows? Natural ventilation?
- 240** #2 acoustic treatments will be necessary in schools to comply with proposed noise level changes in 246-366-260.
- 240** #6 mercury-free controls duplicates existing regulations
- 240** 240-3 – What does that mean?
- 240** 240 Item (2): Duct liner is a standard in the industry to address sound. If the concern is that mold may grow on duct liner, it should not be allowed in inaccessible spaces (i.e. wall chases).
- 240** 240 Item (6): New schools use digital controls. Older schools may have mercury type controls. This could be costly for schools to replace.
- 240** Under the discussion of construction or design of schools, there should be consideration of exhausting gas/oil fired heaters and electrical backup diesel/gas generators at elevated points. Many times this type of equipment is exhausted at or near ground level or have their exhaust stacks horizontal or downward projecting. This puts the children at risk for elevated levels of pollutants from this equipment. This is done many times for aesthetics with no consideration for air quality. In addition, there are minimum standards for emissions form this type of equipment. Under WAC 173-400 and RCW 70.94 all new pollutant emitting equipment (boilers, heaters, generators, cook stoves, etc.) are required to use best available control technology (low emission technology). There are exemptions for small quantity emission units at the state level but the local air agencies sometimes have more stringent requirements. This should be added to the rules to check with the local clean air agency for permitting and emission requirements. Children, older people and asthmatics are most at health risk from this type of pollution.
- 240** 246-336-240 (4) What is the definition of "air contaminants of public health importance"? Who is responsible to determining these and what are the controls required?
- 240** 240 HVAC / Include Table 3.4 from WAC 51-13 into this rule. Address "offices" in schools (i.e., ventilation for copy machines and laminators specifically). Address footnotes #9 and #20 into this rule.
- 240** 240 HVAC / Proposed language additions: 4) ~~(2)-All sources producing air contaminants of public health importance, such as bathrooms, science rooms, laboratories, chemical storerooms, print shops and wherever laminators and photocopiers are located, shall must be controlled by the provision and maintenance of local mechanical exhaust ventilation systems that exhaust directly to the outside, as approved by the health officer.~~
- 240** 240 HVAC / (What standards? – Specify ASHRAE to be in compliance with the State Building Code)
- 240** 240 HVAC / Thermostats in most modern HVAC systems are not necessarily "controls." A thermostat reports the temperature to a computer that automatically adjusts the temperature. My point is that local room thermostat/controls are a thing of the past. Building temperatures are usually controlled from a remote location by the maintenance supervisor, NOT the room occupant.
- 240** Page 9, Item 3 - "School facilities must be designed to prevent the intake of outdoor pollutants and re-intake of pollutants and moisture." How is outdoor pollutant defined? The word "prevent" as defined by Webster is to stop something from happening. Does this statement imply clean room technology is to be used for schools? To prevent the re-intake of moisture would imply that school buildings must be de-humidified or that no recirculation of air is permitted as is the case in hospital operating rooms.
- 240** The Coalitions appreciate that Proposed Rule 246-366-240(1) recognizes that the IBC provisions for indoor air quality (as specified in Chapter 51-13 WAC) are applicable to school facilities. This should be the benchmark requirement and any BOH rules must be consistent with these provisions. However, the Proposed Rules extend beyond the IBC provisions and require 100% infiltration. See Proposed Rule 246-366-240(3). This requirement, in addition to being extremely expensive, is not practical or realistic given normal air conditions, and appears to be in conflict with goals of promoting natural ventilation in the WSSP.

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- 240** Let's use some common sense and logic, if "open plenums" are notorious for causing problems, name them and insist they be discontinued by law and those preexisting remediated. If ceiling tiles are the primary causes of glass fiber contamination, name it and insist this asthma trigger be removed from school and a substitute used as they do at Cornell University.
- 240** Section 246-366-240 (2) Interior surfaces of air handling ducts ... The prohibition of interior sound-proofing will add significantly to the cost of controlling noise in the classroom and lacks evidence of benefit. This 'solution' to the problem of dust in the air neglects other solutions, including using insulation in ductwork that is disposable after its expected life.
- 240** Section 246-366-240 (3) ... designed to prevent the intake of outdoor pollutants ... It is untenable and a flight of fancy to believe that schools can prevent the entry of all outdoor pollutants. Even hospitals do not meet this standard. About the only structures that come close are clean rooms in chip manufacturing. This section should be modified to state, "School facilities must be designed to minimize the intake of school-exhausted pollutants and moisture."
- 240** Section 246-366-240 (4) All sources producing air contaminants of public health ... local mechanical exhaust ventilation The students are off-gassing hexane and methane, do they need local exhaust ventilation? In addition, art class is generating particulates in paper mache and clay work, do they need local exhaust? The math class is using dry erase markers containing alcohol, do they need local exhaust? This section is not based on any science and should be deleted.
- 240** Rules put forth in this draft are requiring that all new HVAC systems eliminate literally all outdoor pollutants. There is not enough funding in any district we know of to construct school facilities to "clear room" standards. The Department of Health is proposing a rule that is unattainable at the current level of funding available to construct educational facilities. This requirement illustrates yet another example of the Department of Health taking isolated instances and using those instances as grounds to penalize all school districts. Here too, WAMOA would like to see statistics related to frequency of IAQ problems reported in educational facilities across the state and a comparison with the percentage of school districts that had few, minor, or no IAQ complaints. The draft rules seem to be totally void of data to support need for the proposed changes.
- 240** 246-366-240 (3) amend "prevent" to "reduce"
- 240** 246-366-240 (5) this is very vague. CEFPI already has standards used in special use areas, which are specific and not generic.
- 240** 246-336-240 (6) Many portables are manufactured with manual controls.
- 240** Section 246-366-240 Existing 246-366-080 (2) should keep the statement about excessive heat, which includes the standards of the American Society of Heating, Refrigerating and Air-conditioning Engineers, Inc. (ASHRAE). If these standard cannot be met, students should be removed from the classroom. A statement would include the following comfort standards from ASHRAE 55-1981: Air must be supplied at 30 fpm for every degree Fahrenheit over 76°F, up to 82.5°F at 160 fpm. <http://ergo.human.cornell.edu/studentdownloads/DEA350notes/Thermal/thcomnotes1.html>.
- 240** HVAC requirements in areas which are not occupied has no logical reasoning.
- 240** 246-366-240 (2) What constitutes a "cleanable" duct interior? (3) How, exactly, do you design a facility to "prevent" the intake of pollutants and moisture? Minimize perhaps.
- 240** 246-366-240: (Paragraph 2) – This needs to be defined, appears to eliminate the use of lined ductwork, which will have a large cost impact with needing silencers and other devices to inhibit noise transmission to the spaces.
- 240** 246-366-240: (Paragraph 3) – This does not appear to be fully defined, needs the "Allowable Contaminant Level" defined.
- 240** 246-366-240: (Paragraph 5) – This statement needs to be defined, there doesn't seem to be any requirements to meet.
- 240** 246-366-240: (Paragraph 6) – This statement/requirement is already in the energy code, does it need to be here as well?
- 240** Proposed WAC 246-366-240(1) references Chapter 51-13 WAC regarding ventilation standards. I just looked at this WAC and it seems to be applicable only to residential construction (see authority in RCW 19.27.190). A reference to Chapter 51-52 WAC or a more general reference to rules adopted under Chapter 19.27 RCW seems more correct.
- 240** 246-366-240 (1) WAC chapter 51-13 mentioned here is for fresh air requirements. It is included here as If It were a design document.
- 240** 246-366-240 (3) You may want to mention ASHRAE 62.1, which covers these Issues.
- 240** Require construction/inspection report as stated in comments above WAC 246-366-220.
- 240** (2) Recommend modifying this section so it says something like ... "ducts must be smooth, non-friable and easily

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- cleanable... (something to indicate ductwork should be designed and built to facilitate routine cleaning and maintenance)
- 240 (3) I don't know what the current language in this section means, or how we would accomplish it...
- 250 Proposed 246-366-250-Lighting: Natural and Artificial LHO's don't generally have the expertise nor the time to determine what lighting is or isn't acceptable.
- 250 Proposed 246-366-250-Lighting: Natural and Artificial Language change—"Prior to the LHO waiving any lighting requirement, the LHO may request engineering justification/certification from a qualified professional contracted by the school board. Costs related to any LHO waiver are the responsibility of the school board".
- 250 Daylighting: Rather than stipulate percentages of daylight (which may be difficult or impossible to achieve), I suggest this be left to the Owner and Architect to do the best they can. Professionals are aware of the value of it, and the new State Sustainable standards have requirements that parallel some of these requirements (but with more freedom to evaluate the overall project, and how best to implement).
- 250 The skylight SHGC appear to conflict with the State energy code. Recommend leaving the State energy code to define this, perhaps adding a statement in the this code to provide "improved SHGC as necessary to optimize the space use".
- 250 Daylight as primary source of light- Our schools are in the convergence zone- we have more dark days than light days
- 250 Day lighting – section is confusing, losing control over design.
- 250 Day lighting requirements are a concern, even on the east side you can have sufficient cloudy days and not meet the standard.
- 250 Page 10 talks about 25% of the windows must be viewable, so how many windows is that? Also is there a minimum square foot required in an instructional room?
- 250 Concerned voiced that if natural lighting means promoting sky lights because this will lead to leaks and mold growth.
- 250 Natural lighting, how do you implement this with computer labs where you don't want glare or too much lighting?
- 250 366-250 - General comment. Adding a lighting requirement is fantastic! However, knowing how hard it is to change regulations, I'd much rather "require" schools to follow the current sustainable schools guide in regard to lighting. That way when the guide gets refined over the years, so does the DOH lighting standard.
- 250 I would recommend changing the title of this to "Lighting: Daylight and Electric Light". Both kinds are real. One is generated by the sun - daylight; and one is generated by electricity - electric light.
- 250 Requiring daylight as the primary source is a laudable goal but it does require specific studies during the design phase. Will the time and expense for this be accounted for in the fee structures allotted to the design team?
- 250 (2)(a) in the second sentence, I believe the first "is" should be changed to "of".
- 250 (2)(b) The wording here is awkward. I believe you are saying that it's preferred that all skylights be diffuse but if they are clear they must have certain VLT and SHGC limits.
- 250 For windows, in the previous section, it says they must be shielded from direct sun with shading devices. Here it sounds like you are saying that you can use a range of glazing as an alternate.
- 250 (2)(c) What standard is used to determine what is excessive glare and how is it measured? I don't believe that this is enforceable as written because someone will always complain of discomfort. You need to list specific contrast ratios stated as maximums. The IES handbook says for education spaces the luminance ratio should not exceed 5:1.
- 250 Table 1 - In the heading it says "Minimum footcandles" - I think you may mean "average maintained". Minimum means that even in the remote corners you should not have less than the stated amount. That would significantly raise current room lighting levels. Alternately you could say 30 minimum maintained footcandles in the task area. For special instructional areas it says 30 vertical footcandles. This is a very high number and it is unlikely the room would have this level, especially high and low on the perimeter walls. The immediate task surround might have them, so an area around the task should be defined. Under non-instructional areas, auditoriums are listed. In high schools, auditoriums are often used for larger lectures or for test taking so they can have the need for normal reading light levels as in classrooms. Generally it is difficult to get vertical and horizontal luminance levels to be the same without causing glare.
- 250 Vertical luminance is important in gyms where people are playing ball and need to see an object move through space at

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high angles.

- 250** 246-366-250 Although architects are all in favor of daylighting, teachers and administrators prefer to limit windows as distractions. We believe that design of instructional spaces should take into account the learning objectives. This section appears to make extensive windows and exterior sunshades mandatory in most cases. This appears to apply to all existing classrooms as well as new which would cause an undue financial burden on school districts.
- 250** 246-366-250 (2) this lighting section seems confusing. Is there a simplified way to express it?
- 250** WAC 246-366-250 recommends 75% of classrooms receive natural lighting but no minimum lighting level is specified. If the area received an average of 0.5 foot-candles would that meet the intent? If not, you should consider specifying some minimum, average value so designers have a target level for their designs.
- 250** WAC 246-366-250 Table 1 requires 10 footcandles on the vertical surface of lunchrooms, corridor and other areas. Vertical footcandle levels are much more difficult to achieve than are horizontal footcandles due to the geometric relationship between ceiling-mounted lighting fixtures which are typically oriented horizontally and the vertical surface which is perpendicular to the luminous flux density of the vertical walls. We suggest you investigate this requirement from a lighting design standpoint to understand the implications, especially from an energy use standpoint.
- 250** WAC 246-366-250 requires vertical lighting on "surfaces as appropriate." This wording provides too little guidance to the designer and too much latitude to the inspector. The inspector should not have the latitude to determine that a surface is "appropriate" after the project is constructed. Suggest defining which areas need vertical lighting and specify them.
- 250** WAC 246-366-250 Table 1 requires only 5 vertical footcandles on whiteboards. This seems contradictory to the requirement to have 10 vertical footcandles in the corridor. The whiteboard task is much more critical than the corridor task.
- 250** WAC 246-366-250(1) states that daylighting should be the primary source of illumination. Does this mean that a classroom that had an average lighting level of 20 footcandle from daylighting and 15 footcandles from artificial lighting would meet the requirements, even though the classroom would have only 15 footcandles at night?
- 250** WAC 246-366-250 It would be very beneficial if those enforcing the code and those using the code understood the meaning of "footcandle." By definition the units of footcandle are lumens/square-foot. This implies an average amount of illumination over an area. It does not imply that every point within the area has the same lighting level. Inspectors should understand the concept of footcandles as being an average illumination level (consult any 1st year college physics book for the definition). When measuring values in the field one should expect to find the meter reading values slightly above and slightly below the target level. The smaller the variation the better the design but there will be some variation even in the best of designs.
- 250** WAC 246-366-250(1) states that 25% of windows in classrooms must be view windows. Is this intended to prohibit classrooms without exterior walls? If so, this could have unintended energy consequences by requiring more exterior wall than would otherwise be necessary.
- 250** 246.366.250 Day lighting is one of the few areas of facility design that has been shown to impact student learning – both positively and negatively. The study of day lighting and line of sight is ongoing, and there is no "one size fits all" set of best practices. The very prescriptive requirements in the proposed rule will also impact design creativity and do not consider local concerns such as cost, safety and ongoing maintenance. The department should not be establishing standards and criteria for applications which do not impact health or safety. While the committee may think that increased day lighting will impact learning, this requirement has nothing to do with health and safety and the department is not the proper authority to determine what lighting levels should be incorporated for that purpose. In fact, improperly applied, these requirements could adversely impact student learning. For example, we are unable to understand how the height of a view window impacts student or employee health and safety, but we do know that view windows located in areas of high levels of activity such as off of busy playgrounds, negatively impact learning.
- 250** In addition, the changes to this section conflict with the criteria in the Washington State Sustainable Schools Protocol (WSS) which was incorporated into statute last year for schools that receive state funding. The department should not be developing different standards from the protocol, although they might want to reference the protocol. These standards are higher and more prescriptive than WSS with no justification for the difference and no funding for the additional costs. This is one of those "might be nice to haves" referred to in our comment on the "purpose" of the rule. Scientific proof of health and safety risks to building occupants should be required for inclusion in this rule.
- 250** We support leaving the current rule as is.

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- 250 Entire section should be deleted because of conflicts with Washington Sustainable Schools Protocol. Classroom lighting is not a health and safety issue and is beyond the purview of the DOH
- 250 Avoid use of "should". Does this mean optional? Will lack of complying infer sub-standard to staff?
- 250 Vague term "excessive brightness"
- 250 Inability of historic buildings to meet 75% daylight illumination.
- 250 Delighting as primary source of illumination due to learning environment is questioned – Shouldn't school boards determine what's best for learning?
- 250 "Fixed sun-control:" building designs to comply with will result is higher construction costs, can cause wind uplift problems in areas prone to high winds.
- 250 The need of measuring foot candles on the vertical surface of a cafeteria wall is un-necessary.
- 250 Page 9 Lighting. Is there a minimum # of windows? How many windows?
- 250 Please don't have requirements for skylights. They are a leak problem/mold problem.
- 250 Lighting – 75% in computer labs??
- 250 250 Lighting Natural: This requirement is addressed under Washington Sustainable School Protocols and under the state energy code.
- 250 246-366-250 Table 1 appears to require more vertical foot candles for a corridor than it does for a white board.
- 250 246-366-250 (1) This speaks to waiving the 75% daylighting requirements on renovations or remodels without detailing the standard. Who would determine this?
- 250 250 daylighting / This would seem to be opposed to energy efficiency requirements. While "daylighting" may have been a factor in 1974, is it still today? Modern daylight bulbs have improved lighting inside our buildings.
- 250 Another factor, automatic fire sprinkler systems now required (but not required in 1974) allow interior classrooms that have no windows to the outside. Skylights in the roof will most certainly produce multiple roof leaks in our buildings as well as energy loss.
- 250 I hope you will re-visit this entire daylight requirement in view of today's technology and the "Sustainable Buildings" technology now being mandated in new school buildings. I believe DOH and LHO are out of their area of expertise when setting building standards.
- 250 250 2 a... should be: The angle of the sun is the inclined angle...?
- 250 250 / "All skylights..." "Skylights not included..." This has been confusing for 30 years. Please re-write this paragraph for clarity or delete it.
- 250 250 / Please define "excessive brightness." How bright is too bright? Glare to one person is comfortable to another. Define "glare" with a measurable standard or delete this section.
- 250 Page 10, Item 1 - Is 75% daylight for lighting in classroom, instructional, office spaces or other critical task spaces such as libraries attainable? At what cost? Do these requirements conflict with the Washington Sustainable Schools Protocol?
- 250 The requirements in Proposed Rule 246-366-250, regarding lighting, are contained in the Washington Sustainable Schools Protocol (the "WSSP") and regulated under the State Energy Code, RCW 19.27A.020.
- 250 Concerning proposed 246-366-250 lighting- providing 75% of required light with daylight. First, skylights are notoriously expensive and equally notorious for leaking (creating mold problems).
- 250 Secondly, the sizes of windows that are being suggested are not exactly environmentally friendly when you consider the added expense of heat loss. Finally, 100% of electric lighting would still have to be provided because schools are community centers; they don't just operate in the daytime. In the real world we have to be cognizant of the initial costs and long term costs associated with operating school facilities. That does not mean we don't care about the health of our kids and staff. Frankly, I am sick of reading and hearing about how school districts only care about the bottom line. That

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is far from the truth, my number one goal is the health and well being of our kids, staff and patrons. What bothers me the most is that all these proposed rules assume the worst, when in fact our district at least (and I am sure others), always goes the extra mile to insure safety and will always be proactive instead of reactionary.

- 250** Section 246-366-250 (1) ... daylight ...75% of classroom, instructional, office space or other ... spaces ... The section is written such that interior classrooms are admissible without daylight as long as 75% of the classrooms in the school are daylighted. In addition, 'critical task spaces' is not defined, ensuring the possibility that photography developing rooms, chemical storerooms, and locker rooms must be daylighted.
- 250** Section 246-366-250 (2) (a) Fixed methods of sun-control ... This section denies alternative methods of sun-control which may be more effective in the application needed. In addition, these methods block the cloudy daylight that we often receive and do not adjust to room use changes or the seasons. It also does not allow for use of translucent panels and other measures which are effective in providing light and controlling glare in our northern latitude. This section should be modified to allow that, "Sun-control measures, such as roof overhangs, lightshelves, blinds, etc., must be installed to control brightness and glare."
- 250** Section 246-366-250 (2) (c) Excessive brightness and glare ... Excessive and discomfort are two subjective terms used in this section. This is obviously difficult to design for and may be subject to any interpretation from the LHO. It is also subject to other factors, such as how a teacher may orient their room, which is separate from the design area. The end product will be the useless addition of roof overhangs and/or lightshelves when blinds are the possibly appropriate source of control.
- 250** Section 246-366-250 (3) (c) Vertical lighting is measured on the teaching wall ... This section makes no allowance for smart boards and other teaching apparatus which are affected by excess light.
- 250** Section 246-366-250 (3) (c) Lighting ... minimizes shadows ... When daylight is required as the primary lighting source, then there may be some shadows. Supplemental lighting can have an effect, but the 'minimize' is subject to interpretation. There has been no interpretation of what lighting shadow level can cause a disruption of learning. Without any science to back this item, it should be deleted.
- 250** Lighting: Natural and Artificial (WAC 246-366-250). This regulation no longer states "no student shall occupy an instructional area without windows more than 50 percent of the school day". This should be added back into the regulation.
- 250** This regulation appears to include office spaces, work rooms, and other areas that are typically in the center of the school and do not have window access. Providing natural light in those areas may not be feasible for schools more than one story in height.
- 250** Skylights can be a problem in classrooms requiring higher light intensity levels, such as laboratories. If backup light systems are not included in the skylight design, then there can be inadequate light levels on cloudy days or on winter mornings and evenings when the daylight hours are reduced.
- 250** The rule "Lighting design must provide sources of daylight from apertures such as windows or skylights of a number and size sufficient to provide 75% of classroom, instructional, office space or other critical task spaces such as libraries with daylight" is not clear. Is the intent 75% of classrooms, etc., or 75% of the space within a classroom, etc.? What is the public health basis for this requirement? How will an LHO verify compliance with this requirement during plan review and inspections? Is it appropriate for this rule to address the requirements for staff office space (see comment #1)?
- 250** Vertical light intensities have been added to the lighting intensity requirements for white boards, black boards, special instructional areas and non-instructional areas. This will be very burdensome during inspections and we question the merit of the regulation in non-instructional areas.
- 250** The whole section on lighting is in conflict with Washington Sustainable Schools protocol.
- 250** Over the years there has been various health opinions on whether natural or artificial light is more beneficial. What is triggering this new 75% daylight illumination requirement which may be impossible for some historic buildings?
- 250** Why should anyone measure foot-candles on the vertical surface of non-learning rooms such as for instance a cafeteria?
- 250** The rule proposal requiring schools to provide seventy five percent natural lighting has the potential to significantly increase the cost of construction of new schools. This will require an increase in the bonds proposals that go out to the voters and return will make it harder to pass these bonds. Compliance with the seventy five percent natural lighting rule would also likely require an increased number of skylights to be installed in school facility roof systems. Our experience has proven that, regardless of how they are designed, skylights and other types of roof system penetrations create a burden on maintenance and operations budgets due to potential for leakage, which created

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potential for mold and other IAQ issues, which further create otherwise unnecessary maintenance expenditures.

- 250** 246-366-250 This section conflicts with Executive Orders 01-01 Energy Conservation (1/8/01); 05-01 Establishing Sustainability and Efficiency Goals (20/15/04) and RCW 29.35C, Energy conservation projects.
- 250** 246-366-250 (1) Skylights often lead (source of water intrusion) and result in loss of energy
- 250** 246-366-250 (2a) What is the "science" of going from the previous recommended 42 degrees from horizontal to 45 degrees?
- 250** 246-366-250 Remove, already addressed by WAC 296.800.21005 & ANSI/IES RP7-1979. What is the science behind the recommended measurements? Vertical teaching walls lighting can change throughout the day, based on natural lighting (246-366-250); opening and closing of sun shades (246-366-250). What measurements should be used for measuring vertical surfaces of "green boards or brown boards"? Each of these types of vertical teaching surfaces exists. What light should be used for LCD monitors that hang on walls?
- 250** 246-366-250 Mandated daylighting is controversial in its efficacy, costly to design, build and maintain, and fails to recognize how teachers actually use lighting sources and controls in their classrooms. It gives no consideration to historic or other existing design elements or site conditions that a district may be forced to work with. Table 1 – New lighting standards for vertical surfaces may be very difficult and expensive to achieve. Has DOH considered the limitations placed on lighting design by existing energy codes / conservation standards for classrooms?
- 250** 246-366-250: (General) – This whole section is convoluted. There are pieces that are also stated in the Energy Code, High Performance Schools and the Building Code.
- 250** 246-366-250: (Paragraph 1) – This is already addressed in the (LEED) High Performance Schools requirements. It also will cost more money.
- 250** 246-366-250: (Paragraph 2) – "Other Critical Visual Areas" needs to be defined.
- 250** 246-366-250: (Paragraph 2a) – This requirement appears to significantly increase the cost.
- 250** 246-366-250: (Paragraph 2b) – This requirement is already stated in the Energy Code and Building Code.
- 250** 246-366-250 (1) Daylight becomes an issue with many children who have special needs. Light can be a "trigger" to headaches, anxiety, and other restrictions. If this section is to be included, a provision for special needs/education must be included.
- 250** 246-366-250 (2) Skylights often leak causing property damage to schools; and thus leaking water on floors (creating slip and fall hazards) and mold intrusion.
- 250** Section 246-366-250 (2) (a) requiring roof overhangs or "lightshelves" [sic] for all school buildings is seriously flawed. Here are the problems:
1. For existing buildings, light shelves or roof overhangs may be technically infeasible. (Existing buildings are not specifically excluded.)
 2. For historic buildings light shelves will often violate historic preservation guidelines. Light shelves or overhangs will dramatically affect windows which are almost always a character-defining element of historic buildings.
 3. In effect light shelves would be required for all south/southeast/southwest-facing windows under this regulation. Light shelves for "sun angles above 45 degrees" provide no glare protection for sun angles below 45 degrees. Thus light shelves will be ineffective for about half the school day, and completely ineffective nearly all day during some low-sun-angle winter conditions. Window blinds must be installed for comprehensive glare protection.
 4. Light shelves cost about \$12 to \$18 per sq. ft. of window area. Window blinds cost about \$3.50 per sq. ft. For an average elementary school (say 55,000 sq. ft) the premium cost for light shelves will range between \$50,000 and \$100,000 depending on design approach. This is a significant added cost considering the limited effectiveness of light shelves for glare control.
 5. Light shelves impact glare control, but this is truly a secondary by-product of daylighting design for energy conservation. The primary purpose of light shelves is to generate reflected light that can be captured for daylighting conservation. Thus light shelves are primarily a design tool for energy conservation as part of an integrated daylighting design approach. In effect this glare-related health regulation crosses over into the realm of energy conservation regulation by mandating light shelves or roof overhangs.
 6. Other regulatory models such as Washington Sustainable Schools Protocol and LEED do not mandate light shelves.

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In those systems it is possible to achieve maximum daylighting points without light shelves or roof overhangs. These systems recognize that daylighting design can be addressed successfully with a variety of design approaches. Health regulations should not mandate design features via a one-dimensional approach when other recognized approaches achieve the same end with a broad palette of design options.

250 246-366-250 Lighting: *Natural and Artificial. Section 1 is confusing in that it could be read that 75% of each classroom should have natural light. This section should be re-worded.

250 *Section -250: Lighting: Natural and Artificial (1)* Are the percentages of natural light consistent with International Building Code, which is adopted by local building jurisdictions?

250 Is there a "science based" reason for all the requirements for natural light? Can it be demonstrated that the natural light will improve learning and health? What is the cost/benefit ratio for this requirement?

250 In Table 1 the kitchen areas including: food storage preparation areas has been removed. There is a requirement in the current food service codes that specifies the lighting in these areas, maybe they should be included or they may be referred to in the food service operation section.

260 Proposed 246-366-260-Sound Control LHO's don't generally have the expertise nor the time to determine what sound control is or isn't acceptable. Any prior plan approval by the LHO should be based upon prior certification from a mechanical engineer of someone similar. The last sentence should be changed to stipulate that.

260 Proposed 246-366-260-Sound Control Language change—last sentence "School officials shall obtain certification that ventilation equipment and other mechanical equipment generating noise in classrooms is installed according to the designer & installers certified plan and construction criteria. Prior LHO plan approvals are based in part on certifications issued by engineers for the project".

260 Proposed 246-366-260-Sound Control LHO's don't generally have the expertise nor the time to determine compliance with this section! It should be up to the designer engineer and construction contractor to certify these requirements have been met!

260 Proposed 246-366-260-Sound Control Language change—"The LHO shall determine compliance with this section when the design engineer and construction contractor have certified that design and construction criteria have been complied with".

260 I am concerned about the changes to 246-366-110 (260) Sound Control. My concern is that the change of allowable background noise in paragraph 2 from 45 dBA to 40 dBA is overly restrictive and will increase the cost of construction for classrooms. The increase in cost will be caused by; making inexpensive systems obsolete in this state; causing typical classroom mechanical equipment to be located remote from the classrooms which will increase distribution ductwork costs; higher quality unitary equipment will be required because they are quieter (this is not bad, just more expensive); 40 dBA may require acoustical analysis of each classroom to achieve with confidence. All of this will add financial pressure to school districts already facing pressure to improve their facilities while trying to be good stewards of taxpayer dollars.

260 I have been in numerous classrooms struggling to meet the 45 dBA requirement. Many of these classrooms were quiet, with minimal motor or air noise. Fill any of these rooms with students and/or computers and 50 dBA becomes difficult to achieve. 45 dBA is actually very quiet, I have seen the rustling of clothes send sound meter readings over 45 dBA.

260 What is the motivation and/or science behind this rule change? If it is to provide for children with hearing disabilities, I would think classroom amplification in classrooms with these students would be more beneficial and economical. Pushing down the background noise level from quiet to quieter provides negligible benefit with substantial cost increase.

260 Paragraph (1) in Chapter 246-366-260 Sound Control maintains the previous noise criterion curve of NC 35, even though paragraph (2) decreases the background noise from 45 dBA to 40 dBA. The NC level for the design is related to the final dBA level after construction. To be consistent, the NC level in paragraph (1) should also be decreased 5 dB, to NC 30.

260 1. The 40 dBA is a real problem, as I do not think it can be done consistently. A recent school showed that the computers (cooling fans) caused the room to exceed this. I am not aware of the 45 dBA creating a problem. Is there a basis for this change that considers the costs and if this can be achieved?

260 Back ground noise- we cannot meet this standard in even newly remodeled schools- some new schools cannot meet this standard cost effectively, this means higher taxes for patrons and thus older schools that do not meet safety standards

260 Unit ventilators may not meet acoustical requirements, background vs. central ventilation.

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- 260** For sound attenuation, specifically name it where we know it is a problem.
- 260** For over 30 years Marvair has been designing HVAC systems for schools and have extensive experience with sound levels in classrooms. Based upon our experience, we oppose the sound standard of 40 dBA for the following reasons:
1. The cost to implement the standard will be substantial. A report by the Air Conditioning and Refrigeration Institute (ARI) found that to achieve 35 dBA would increase the cost of site built schools in Minneapolis by up 19%. Based upon this study, it is reasonable to expect an increase in construction costs of at least 10% to 15%.
 2. In 2003 a report, Environmental Health conditions in California's Portable Classrooms was published. This report was commissioned by the California legislature and prepared by the Cal. Dept. of Health Services. This report recommends a maximum of 45 dBA.
 3. The requirement is overly restrictive and dictates a one size fits all approach. For example, audio amplification is not permitted as a method to improve the acoustics.
 4. The method of deterring compliance or non-compliance with the 40 dBA is vague. For example, there are no instructions for the LHO as to where to take the sound measurements. Is this any place in the classroom, in the middle or 6" next to an air conditioner supply grille?
 5. The standard could adversely affect the use of relocatable classrooms as an economical solution to school classrooms.
 6. Compliance with the standard when schools are renovated could be economically impractical. The ARI study found that the cost increase, "for installing applicable design solutions in renovations is higher than for new construction." For example, one of the methods used to achieve low sound levels in multistory schools is a "floating floor system". A floating floor utilizes a resilient membrane with 2" concrete topping (and associated additional structure to support the weight). It would not be practical to add a floating floor system to an existing school.
- 260** 246-366-260 This section gives health department control over noise generation from mechanical equipment. I am not sure about the standard, but the testing and enforcement may take significant time before we can open a new school. This appears to apply to all existing classrooms as well as new.
- 260** It is important to change the NC design level in paragraph (1) from NC 35 to NC 30 to be consistent with the intent of decreasing classroom noise levels from ventilation systems, but more importantly, to be consistent with paragraph (2) that requires a maximum background noise level of 40 dBA after construction. The NC level in the design is directly related to the maximum noise level following construction. A 5 dBA drop in noise levels after construction (to 40 dBA) requires the same 5 dB drop in NC level (to NC 30) during design.
- 260** The dBA value is calculable from the NC curves, which are equal loudness versus frequency curves that are used to rate HVAC noise. The calculated dBA value is 9 or 10 dB higher than the NC rating. Please see the attached spreadsheet.
- 260** The recent ANSI standard on classroom acoustics identifies a recommended background noise level of 35 dBA. This is much quieter (10 dB, or half as loud) than the state's standards. On our school projects in the last several years, we have been recommending a compromise between the state's present standards and the ANSI standard, to NC 30. We are attempting to balance between the possible increased costs and the ever increasing call for better classroom acoustics in the teaching community across the country. In fact, our experience is that a change to NC 30 is not likely a significant cost difference in most classroom HVAC designs. It penalizes most heavily design that would locate supply or exhaust fans in the classrooms, either above ceilings or in closets. Most current designs don't use this approach, and instead use attic catwalks to house the mechanical equipment. This approach also makes it easier to service the equipment. This design scheme can typically meet the NC 30 design goal by adding a bit more ductwork length and acoustical lining.
- 260** In the section on "Sound Control" 246-366-260, there is no indication as to who or how sound measurements are to be taken to implement the state recommendations/requirements, except where it mentions noise from ventilation systems.
- 260** 246.366.260 (1) If this section is to remain in the rule it should be returned to its original form. While we know that acoustics play a part in creating a good learning environment, we fail to see how sound levels in a room that do not damage the body impact health and safety. (See comment on 246.366.250) We object, again, to the inclusion of the LHO's approval of plans and specifications on the grounds that they lack the qualifications to provide educated comments.
- 260** (2) Why the change to 40 dBA? The WSS protocol is at 45 dBA.
- 260** (3) Pre 1990 portables should be exempted as before.
- 260** Deleting sound control exception for portables is a mistake.

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- 260** HVAC equipment should be installed according to manufactures' recommendations not LHO approved plans/specs.
- 260** Maximum ambient noise levels don't take into account the realistic nature of shops and preparation of people for employment.
- 260** Sound control #2: using hard insulation will generate noise that exceeds 40 db per this section due to air movement; or larger ducts and other physical aspects of building will be required at great expense.
- 260** Proposed noise levels and LHO site verification sampling will increase construction costs and add to project time.
- 260** 260 Sound Control: This section is addressed under the Washington Sustainable School Protocols. Private schools should have a similar requirement.
- 260** 260 Item (4) 115 dBA in band rooms is an impossible standard to meet when instruments are playing.
- 260** I do not agree with the proposed sound control lowering from 45 dBA to 40.
- 260** 260 / 45 dBA is attainable in most classrooms and is not a distraction to the learning environment. 40 dBA will very difficult to attain, especially in rooms with Univents.
- 260** 260 / Students and staff must not be exposed to impact/impulse sound levels less than one second in duration equal to or greater than 140 dBA without providing hearing protection. For instance, students are often exposed to sound levels greater than 115 dBA when a cymbal is crashed. WISHA accommodates this with the term "impact or impulse noise" WAC 296-817-100 and differentiates it from sustained noise. At school dances, the sustained noise sometimes exceeds WISHA's noise level requirements for staff and should be addressed in this rule. At basketball games or assemblies, the noise level in the gymnasium sometimes exceeds 115 dBA for more than one second (impulse noise) but does not last more than a minute or so. I don't know how to address this situation, especially when the coach or other staff members, are encouraging the fans to make more noise. This occurs at professional sporting events also. Do not write a rule that cannot be met! This section needs to be updated. Please consult with L&I WISHA Division and rewrite this section.
- 260** 260 / (The International Fire Code allows Fire Alarms to be 120 dB.)
- 260** 260 Maximum noise levels / The numbers I have inserted are from WAC 296-817 (WISHA). This table, being different from the WISHA rule, will cause confusion in the schools. Is it mandatory? Who is the enforcement agency? What are the penalties? This seems to be an example of "kids are smaller therefore more is better". Is there any science behind this? Someone better tell the IPOD folks. In fact, there is documentation that students are suffering hearing loss at young ages due to loud amplified music, including IPOD use. Loud amplified music allowed by school officials at school dances should be addressed prior to attempting to beef-up the acceptable noise levels in the building. I am aware that this was in the existing code but that was written prior to OSHA/WISHA and many of us did not follow it for that reason – OSHA being newer took precedence.
- 260** Concerning proposed 246-366-260 Sound Control. For the past few years the number one goal locally has been IAQ issues, so resources were geared toward insuring low CO2 levels and balancing HVAC systems. The added airflow has increased background noise so we responded with Sound Field Systems that help younger children (whose hearing is still developing) to easily concentrate on their instruction while still keeping the sound levels well within safe limits. Again the proposed rules are out of touch with advances in technology and classroom acoustics.
- 260** Section 246-366-260 (1) ... ventilation equipment ... not to exceed NC-35 The section does not specify who will provide the certification, designer or supplier.
- 260** Section 246-366-260 (2) The actual background noise ... must not exceed 40 dBA This entire section should be deleted as noise at this level is neither a health nor safety issue. While background noise is a factor in the learning environment, it is one of many. There are many factors which go into making a successful learning environment. Mandating standards for one factor without taking into account the whole may deleteriously impact this goal.
- 260** Section 246-366-260 (3) The maximum ambient noise level in industrial arts ... Industrial arts usually involves the use of equipment that generates noise. This noise can easily be above the 65 dBA ambient standard, and may involve students using hearing protection. Is it the health department's position to eliminate industrial/vocational arts education in the schools? This section should be deleted and possibly replaced with a section espousing the use of hearing protection in certain circumstances.
- 260** Section 246-366-260 (4) Students must not be exposed to sound levels ... 115 dBA. This standard does not take into account the use of hearing protection in certain industrial arts/vocational settings. This would include carpentry, metal

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- work, and other occupations. The above question of eliminating these types of programs is raised again.
- 260** Sound Control (WAC 246-366-260). We routinely measure the sound level of each room during pre-occupancy inspections. Our sound level meter is accurate and is routinely calibrated. In our experience, we have found it very rare that the background noise level of any room measures 40 dBA or less even when the ventilation system is not yet functional. It is fairly common for rooms to measure well above the currently-required 45 dBA maximum. Generally, balancing the ventilation system decreases the sound level but often times it has proven very difficult to reduce that level to 45 dBA. Based on our experience we believe it unlikely that schools will meet the new requirement in all classrooms and still meet the current ventilation requirements. We do not want to sacrifice indoor air quality objectives to meet sound level requirements (i.e., the fan speed and therefore the number of air changes per hour may be reduced to comply with the lower noise level). What is the public health basis for the decrease to 40 dBA?
- 260** Section (1) requires that school officials obtain certification that ventilation equipment...is installed according to the LHO-approved plans and specifications. We suggest clarifying that the certification be provided by the applicable design architect/engineer.
- 260** WA L&I already address noise exposure levels for school personnel. In a situation when teachers and students share the same space, the exposure rules should be the same for both – alas need to coordinate with L&I.
- 260** Section 2 subsection 4 requires that the noise level at a proposed site for a new school should not exceed an hourly average of 55 dBA or sound reduction plans approved by LHO need to be in place. This will put an excessive burden on urban schools and brings up once again the question of the qualifications of the LHO.
- 260** There is also a contradiction between the noise level requirements and the requirement for hard, non-friable insulation of ducts.
- 260** 246-366-260 (1) Remove “ensure” and replace with “specify”. Installation of heating equipment must be installed according to “the manufacturer’s recommendations” to comply with warranty and guarantees of equipment.
- 260** 246-366-260 (2) What science is this recommendation based on? Again, WAC 296-817-30010 applies.
- 260** 246-366-260 (3) Fume and dust exhaust systems are to be operating while equipment is operating, thus the dBA may exceed 65, and the reason hearing protection is to be required when the dBA does exceed specified level in Table 2, on the time-weighted average specified.
- 260** 246-366-260 (4) The clashing of a cymbal in band class exceeds 115 dBA, again all sound levels are based on “duration” of exposure
- 260** You may want to re-evaluate the noise level changes. I have yet to be in a meeting where these levels have been met in any facility whether it is a school or not.
- 260** 246-366-260 (1) Essentially forces a district to commission any new mechanical installation. Potentially impractical and expensive for small projects. (2) Lowering the background noise threshold to 40 dBA will increase the cost of design and installation of new equipment substantially. 45 dBA can already be a difficult standard to reach in older buildings that have older windows and wall insulation (they struggle to block outside noise from entering the classrooms). (3) Lowering the noise level to 65 dBA in industrial arts areas (apparently even those “existing” spaces not being altered) will be virtually impossible in older facilities. This threshold is substantially lower than those levels allowed in Table 2.
- 260** 246-366-260: (Paragraph 1) – In lieu of NC-35, A-weighted 45 dB RC is becoming industry standard. Who is going to certify the installation of the equipment? Does this indicate a Sound consultant be on board for every project?
- 260** 246-366-260: (Paragraph 2) – The 40 dBA requirement is difficult to obtain for high spaces which require high throw diffusers for the proper mixing and conditioning of the space. Computers are higher than 40 dBA, are they excluded?
- 260** 246-366-260: (Paragraph 3) – This would definitely require a sound consultant, it also appears that it may be impossible with the velocities that need to be obtained to entrain the particulate and air required to be expelled from the space.
- 260** 246-366-260: (Paragraph 4) – 115 dBA may be impossible to obtain in areas such as Band and Shop.
- 260** 246-366-260 Sound Control. *An actual background noise limit of 40 dBA may be difficult to achieve and may indirectly effect air quality as ventilation units may have to be turned off to meet the standard
- 260** Where did the 40 dBA requirement for classrooms come from? Is that a realistic requirement that will have a cost/benefit relationship in learning? Renovated facilities that are considered new construction may have a hard time meeting this requirement.
- 260** What will be required if the ambient noise level in the industrial arts, vocational agriculture and trade, and industrial classrooms does exceed 65 dBA? What are the options?

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- 270** Section 270 is covered by another section of the health department, prefer not duplicate.
- 270** 270 / Define "Temporary Food Event." Is this the same as a "temporary food establishment?" WAC 246-215-131. If so please make reference to that WAC in this rule so we all agree what we are trying to achieve. If it is something else, please define. Does this mean that schools need to have hot water, hand washing facilities and toilet facilities everywhere they serve or provide food? WAC 246-215-131. This would preclude some school activities where packaged food items may be provided or sold such as candy bars, cookies, chips, etc. (Of course if food is being prepared such as sandwiches, popcorn or chili the food regulations apply. For that case, is it necessary to repeat the food regulations in this rule?)
- 270** For consistency between these rules and those pertaining to food establishments, the section heading should be changed to "Food Establishment Design" and "temporary food events" should be changed to "temporary food establishments".
- 270** 246-366-270 (2) I understand Section 2 applies to new construction, thus this is not the proper place for (2), but this is an important rule that I would like to stay in section 246-366. Prior to this rule, schools with central kitchens were transporting hot food and not maintaining appropriate temperature control, and were transporting milk in non-refrigerated containers. Both practices pose the potential for food poisoning.
- 280** Just a few extra cost items I noted on my first run through the proposed rules is the requirement to provide single service towels in addition to warm air dryers. We could easily go through a case of towels at a home athletic event not counting the regular school day.
- 280** Proposed 246-366-280(5)(a) Warm air dryers MAY BE used in ADDITION TO single service towels. This is a tremendous burden to us in several ways. 1-extra man-hours to clean up and unplug drains caused by those that like to see how much havoc they can cause. 2-High cost of paper products 3-High cost of plastic can liners needed for the waste towels. 4-High cost of garbage service.
- 280** 246-366-280- The criteria for bottled water found in 246-366-350(6)(d) should be included here also. Many schools provide bottled water for reasons other than lead concerns (iron, no plumbing in portables, etc).
- 280** Proposed 246-366-280—Water Supply, Plumbing and Fixtures There are many types of water treatment other than additives. The language should reflect that. No language suggestions
- 280** The draft rule conflicts with the food code as it pertains to the hand washing requirement (should be 15 seconds, rules say at least 10 seconds- page 14).
- 280** Section 280(1) page 13, how is a school to know if the public water system they are connected to meets the standards?
- 280** 246-366-280 (5)(c): add "including outdoor athletic (or other) events"
- 280** Part 246-366-280 - Water Supply, Plumbing and Fixtures Based on the recent experiences at Seattle Public Schools with refurbishing school building piping systems with end-use plumbing fittings that meet the current ANSI NSF Standard 61, as well as the results from the field and laboratory testing described in our comments above, it was found that plumbing products and materials that meet Standard 61 are often ineffective for consistently achieving lead levels below 20 ppb. Furthermore, the current Standard 61 allows that such plumbing products may contain up to 8 percent lead. Future revisions to Standard 61 may revise this requirement, but it cannot be known if or when such revisions will occur. If a school board aims to reduce lead in all sources to a level less than 20 ppb, then we suggest that agencies specify meeting the NSF 61 requirement and additionally specify use of components and fittings made of materials that contain less than or equal to 0.2 percent lead.
- 280** 246.366.280 (5)a. Paper towels should not be required if warm air driers are provided. (5)c. Schools should not have to provide access to toilet and hand washing facilities for non school activities. Currently, groups that require toilets rent them at their own expense.
- 280** (6)b. There appears to be a mistake in this section from the current rule. Why must walls be impervious to water up to showerhead height in drying rooms which do not have showerheads?
- 280** Clarify "Lead-free" plumbing.
- 280** Requiring single service towel in addition to warm air dryers is very problematic especially with certain age groups due to paper towel vandalism/arson.
- 280** 5b, definitions needed.

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- 280** Special events would be required to have toilet and hand-washing facilities, but what about fields use which typically doesn't have this?
- 280** Handwashing facilities: The new food code requires 15 seconds. This is inconsistent with the 10 seconds that is currently in the draft school rule. Page 14
- 280** 280 Item (2): This is a requirement of the International Plumbing Code. Rules may be drafted to require any water fixture or piping failing the allowable standards to be addressed.
- 280** 280 Item (5b): This should be defined more explicitly with examples of acceptable flooring types.
- 280** 280 / Define "non-skid." This has been controversial since it was introduced in 1974. Let's get rid of the controversy with clear language and definition of terms!
- 280** 280 / Define "impervious walls. " Tile? Painted sheetrock? Masonite board?
- 280** 280 / Many locker rooms are carpeted with "indoor/outdoor" carpet. Are these "water impervious"? What is a "washable surface"? Are drains necessary in carpeted locker rooms or dressing areas? Again, the amount of time health inspectors and school personnel have spent debating these terms and issues would have paid for a new school. My point is to ask you to write an unambiguous, clear, concise rule that everyone can understand and comply with. Most school officials simply want to understand what the rule is and they will comply. What we do not want is for one health inspector to require one thing and another to require something else from the same rule.
- 280** The requirements in Proposed Rule 246-366-280, regarding the construction of plumbing and fixtures, are regulated by the Uniform Plumbing Code.
- 280** Section 246-366-280 Water Supply, Plumbing, ... The first three sections of this rule are wholly under the purview of 246-290 and should be deleted as redundant.
- 280** Section 246-366-280 (5) (b) Floors & walls near fixtures must be ... easily cleanable. The terms "near" and "cleanable" are ill-defined. The sentence including these should be changed to, "Floors, walls, and surfaces adjacent to toilets and hand-washing facilities must be water-impervious."
- 280** Section 246-366-280 (5) (c) Toilet and handwashing facilities must be accessible for use during ... scheduled events. Schools often allow their fields to be scheduled for use outside school needs. It would be prohibitive to staff the building to allow for bathroom use during these "scheduled events". Is the Health Department denying community groups the use of our facilities? A suggested language alternative is to substitute "school-sponsored activities" for scheduled events.
- 280** Section 246-366-280 (6) (a) and (b) Showers ... Drying areas ... The sentence in (b), "Walls must be impervious to showerhead heights." Should be moved to (a), where it seems more applicable.
- 280** 246-366-280 (2) Remove "ensure" and replace with "specify". School Officials do not test the content of plumbing materials and products beyond the manufacturer's warranty, they can only specify equipment meets these standards.
- 280** 246-366-280 (5) Amend to read "warm air dryers may be used in place of single service towels". The costs associated with supplying and removal of single service towels is substantial. Where is the science behind this recommendation? Existing DOH regulations applicable to public restrooms in restaurants do not require single service towels. Must toilet paper be available, conveniently located adjacent to each urinal? (a urinal is considered to be a toilet fixture).
- 280** 246-366-280 (5d and 6a) Where does the recommendation for "from 100 degrees" come from and on what basis. Cold water, combined with hand washing friction and soap kills germs. Compliance with the proposed "minimum 100 degrees" may be difficult, especially for self-closing faucets, where the hot-water supply is a great distance from the hand-washing facility.
- 280** Page 13 SRDC #5 Should not lead wording be added? Need to identify what "no Lead" means Look up California and how much leaching Need to put must meet appropriate ASTM standards.
- 280** Section 246-366-280 (5) (c) should keep the statement that restrooms must be provided and maintained in size, quantity and location, as approved in the original building design, which follows the state building code. If school administrators close restrooms, the school district must demonstrate that there are sufficient restrooms to meet demand. In emergency situations, where restroom are temporarily out of service (no water or sewer lines broken), alternative sanitary facilities must be used as per an approved emergency plan. These temporary facilities are not to be used longer than stockpiled supplies would allow. Schools should be closed if utilities or emergency sanitation supplies are not available.
- 280** 246-366-280 (5) (b) "Floors must be non-skid" – requiring non-skid flooring in toilet and hand washing facilities will add

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- 30 to 50% in materials costs, and make them much more difficult to clean. Is a sink in a classroom a hand wash facility? (d) is run-time allowed before measuring the 100 degree minimum water temp? If not, this could be very difficult to achieve.
- 280** 246-366-280: (General) – This section in general is covered in other coeds such as the building code and energy code. The items appear already in place and industry standard now.
- 280** 246-366-280 (1) Remove. School districts have no control of the “public water supply: This is the responsibility of the LHO and the water purveyor.
- 280** 246-366-280 (2) Remove “ensure”. This is beyond the ability of a School Official. Using the term “ensure” heightens the liability of the School Official. If the product is specified by the school district to be “lead free” and the manufacturer certifies it is “lead free”, then the Official has performed as promised.
- 280** 246-366-280 (3) The National Fire Protection Association reports the major cause of fires in schools is arson, and the majority of these arson fires are set in the boys bathrooms by using single service towels as fuel. Fires create not only property damage, but direct threat of life safety.
- 280** Single service towels are a direct cause of water damage losses, resulting from intentionally clogging toilets and sinks. Many water damage losses expand well beyond the walls of the bathroom, in to gymnasiums, classrooms and hallways, causing thousands of dollars of damage (and again sources water intrusion and mold).
- 280** 246-366-280 ~~Plumbing~~–Water Supply, Plumbing And Fixtures (5) (b) Toilet and hand washing facilities shall be accessible for use during school hours and scheduled events. (Reference 246-366-060.) (5) ~~(c)-(b)~~ Floors & walls near fixtures must be water impervious and easily cleanable. Floors must be non-skid.
- 280** 246-366-280 ~~Plumbing~~–Water Supply, Plumbing And Fixtures (6) Water from drinking fountains shall clear the nozzle to allow safe and healthy drinking access. (Reference 246290-490 and 51-40-0603 per Health and Safety Guide.)
- 280** 246-366-280 Water Supply, Plumbing and Fixtures. *Section 5a does not allow the use of warm air dryers to be used as a sole means for hand drying. Why? The Food Code allows only air dryers to be used.**
- 280** 246-366-280 Water Supply, Plumbing and Fixtures. * Section 5d requires self closing faucets for handwashing run at least 10 seconds. To be consistent with the food code, it should be 15 seconds**
- 280** *Section -280: Water Supply, Plumbing & Fixtures* (3) The requirement to have approval of water treatment by the department prior to being added to the water may create hardship for those school facilities with an individual water source currently permitted as a public system. If the intent of this regulation is to get at water treatments provided at the faucet, then it should read, “Any water treatment provided at the point of delivery must be approved by the department.” (6)(a) Remove the last sentence prohibiting cold water showers. The previous sentence requiring a hot water supply is adequate.
- 290** Section 246-366-290 Sewage Treatment This is again a regulatory area which is completely covered and enforced under other agency/departments. It should be deleted.
- 290** *Section 290: Sewage Treatment and Disposal* Proposed language rewording: simply remove “depending on their jurisdictional authority, which is based on design flow and method of sewage treatment dispersal.” The first part of the sentence stands on its own.
- 295** 246.366.295 (2) The installation of used or homemade playground equipment should not be permitted.
- 295** It is important that provisions aimed at protection children’s health be binding and enforceable. For this reason, I encourage you to include language that explicitly requires mitigation and remediation of known contaminated playground soils in your proposed rule.
- 295** Proposed 246-366-295—Playground Design & Construction LHO’s don’t generally have the expertise nor the time to determine compliance for homemade playground equipment, nor are they familiar with any such standards. In addition, we rarely see playground plans when doing school plan review. I would suggest deleting the LHO from this issue.
- 295** Proposed 246-366-295—Playground Design & Construction Language change—“Used or homemade playground equipment may not be installed without review for compliance with the Consumer Product Safety Commission Handbook for Public Playground Safety, 1997 and approved by a Certified Playground Safety Inspector”
- 295** Existing playground equipment may make schools liable for not meeting these new rules. To comply, some existing playground equipment will need to be removed and replaced.
- 295** Remove term “used or homemade” because it implies the use of them. Replace with “they are not allowed.”

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- 295** Under section 295 Playground Design & Construction, subsection 1b: ASTM F 1292 is a standard that applies to the manufactures of playground surfacing products. Instead, this school rule should be citing ASTM F 2223, which applies to public organizations that maintain a playground. ASTM F 2223 provides detailed information on how to select and maintain appropriate surfacing.
- 295** Concerning proposed 246-366-295 Playgrounds. (2) Before used or homemade playground equipment is used it must be reviewed for compliance. You have got to be kidding me, neither used nor homemade equipment would ever be allowed on our playgrounds, let's face it our culture is "sue happy" the liability would be enormous I am incredulous that would even be considered as an option. I admit we are fortunate to have a trained playground safety inspector on staff which makes my job easier but even so that would never be allowed. All of our playgrounds are inspected monthly with record keeping.
- 295** Playgrounds – Design and Construction (WAC 246-366-295). Currently, our practice is to require that playground submittals include a statement from the manufacturer that the equipment meets CPSC (1997) and ASTM 1481-01. We suggest that this section be reworded to combine items (1) and (2) and include such a requirement. We have encountered many problems with used equipment (it has usually been replaced by the former owner because it didn't meet standards), new equipment designed for residential use, and homemade equipment and complying with ASTM and CPSC. However, many deficiencies in playground equipment design are not evident until the equipment has been constructed and installed. By that time it is too late. A requirement such as "All playground equipment must be reviewed and approved by the LHO prior to installation. The school must provide documentation that the equipment complies with ASTM standards and CPSC guidelines for design and placement", should be included. The requirement should clarify that the LHO be given authority to conduct the review or defer it to another CPSI – this is not apparent in the current verbiage.
- 295** Our other concern in this section is the required compliance ASTM F 1292. The resilient surfacing material would either need to be tested at an independent certified testing facility, or very expensive testing equipment would need to be provided at the local level for appropriate field testing. Testing results would only be valid for the date, time, and location the sample was collected and would not account for our variable weather conditions. Having and maintaining resilient surfacing materials that comply with CPSC "Table 1 – Critical Heights (in feet) of Tested Materials" may be a more applicable option to explore.
- 295** Proposed rules for Playgrounds and playground equipment, if adopted, would impose a huge liability directly on the school districts. Currently school districts follow the recommendations of *The Health and Safety Guide for K12 Schools in Washington*. If these guidelines were to be made mandatory, school districts (depending on the size) would have to increase staff by one or more persons in order to maintain playgrounds full time in accordance with the mandate. Changing current recommendations to mandatory rules could potentially put school districts in jeopardy of law suits.
- 295** 246-366-295 Remove. These publications are provided as "guidelines". Both publications acknowledge this fact. Each of these publications are periodically amended to reflect new equipment, new science and new concerns (the ASTM 1487-01 was replaced by ASTM F1487-05 in 11/05).
- 295** 246-366-295 (2) Many school districts do not have the assistance of LHOs (and many LHOs are not CPSI certified) nor CPSI's. Districts understand the importance of specifying in purchase orders and bid specifications that all equipment will comply with current ASTM and CPSC guidelines and be IPEMA certified.
- 295** 246-366-295 (3) This is in conflict with the CPSC Handbook for Public Playground Safety publication. Rule 8.1 – Durability and Finish, Paragraph 6, allows for CCA
- 295** Page 21 Playgrounds SRDC proposal 7 Add the section about "the installation of used or homemade playground equipment to meet the ASTM standards.
- 295** (2) chromated copper arsenate or creosote treated wood in play areas. As far as I am concerned there should not be any of this in the school area, period. It should be removed, which I know is costly. There are plenty of stories about a simple splint of this material causing health problems, let alone the hand to mouth contact.
- 295** 246-366-295 Playgrounds - Changing from guidelines to requirements will add to the complexity and cost of building and maintaining playgrounds. Districts may choose to omit play equipment if the standard for new installations, ongoing testing and inspection becomes too high. Some, if not most, older play equipment may have to be removed because it cannot be made to meet the new standards. (3) Chromated Copper Arsenate banned - this standard conflicts with 246-366-390 (2).
- 295** 246-366-295 (1) California adopted the CPSC and ASTM guidelines as rule. This created increased potential liability for parks and school districts. Many parks and schools removed equipment, rather than be faced with the necessity of hiring experts to inspect their equipment, or send staff to become certified inspectors (\$500 per person for 2 day class and test.

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You must pass this difficult test to become certified and re-certification required every three years). Schools are doing a much better job in specifying equipment that is ASTM, CPSC and IPEMA compliant. They are educating their staff in equipment safety and maintenance. Our loss history indicates a steady reduction in the number of playground injuries resulting from equipment failure. Please leave this as a guideline, as intended by both the CPSC and ASTM.

- 295** 246-366-295 (2) A trained CPSI would not “approve” any homemade playground equipment. By “approving” the CPSI is assuming liability. The liability for the manufacture of a piece of playground equipment is the responsibility of the manufacturer, thus the reason WSRMP recommends against the installation of homemade or donated equipment.
- 295** 246-366-295 Playgrounds-Design and Construction. *While it can be inferred from the definition of new construction that new or remodeled playgrounds need plan reviews, nothing in this section specifically requires a new or remodeled playground proposals to go through a plan review process. Such a statement would eliminate the need for Section 2.
- 300** 246-366-300: Applicability – include facilities currently in use OR to be constructed!!
- 300** 346.366.300 Applicability. Please clarify this section. These rules certainly apply to all schools effective some date – not just to school facilities in use as of the given date. Are newly constructed schools exempt?
- 300** Applicability (WAC 246-366-300). The wording indicates that the operation section applies only to schools that were already operating before the effective date of the regulations. Shouldn't the section apply to all schools – those existing and newly constructed?
- 300** 246-366-300 Applicability – I think they want this section to apply to schools in use on or after the effective date of these rules
- 310** 366-310(3) - requiring training for persons using hazardous chemicals is a good idea. However, I'd modify this to "...using hazardous chemicals have received --- add either frequent or annual --- training...."
- 310** 246-366-310: calls for staff training in using hazardous chemicals. What kind of training and how often? (it doesn't happen if it is not specified)
- 310** On page 15, 246-366 -310 #1, what does this mean? That was the question coming into this Rule review several years ago. Perhaps this should be further defined. Also “shall” should replace “must” and identify responsible parties. #2 also.
- 310** 346.366.310 This section contains many opportunities for opinion to replace fact. What is “reasonably free of all objectionable odor.”? (3) The statement that, “only the least hazardous, or non-hazardous chemicals may be used...” is overly broad and subject to interpretation as to which chemical is the most appropriate for a particular job.
- 310** 310 - #3: Districts need some more leeway to determine chemical usage.
- 310** WAC 246-366-310 (3) How are the terms “hazardous chemicals” and “least hazardous” defined? The proposal states that pesticides must be approved by school officials and then only the least hazardous will be allowed.

School officials may not have the training to properly determine which pesticides are, or are not, appropriate. Professional applicators must pass a test and attend continuing education courses. Many have degrees in horticulture or entomology.

Any potential “hazard” is dependant on both toxicity and exposure. A pesticide contained inside a bait box, injected into a tree or otherwise applied in a manner to prevent exposure has minimal hazard. Application method and timing must be considered.

Baits, gels and pastes, typically placed in crevices and unreachable locations pose minimal risk. Insecticides injected into tree trunks pose virtually no risk. Mildicides used in locker rooms are registered pesticides. Would any of these be considered “hazardous”?

Also, the overall hazard of the situation should be considered. Cockroaches, rodents, mold and other pests spread diseases and contribute to asthma. The hazards of such infestations should be weighted against any risk associated with pesticide use. If a more effective product can be used once and eliminate the pest, the overall risk may be less than repeated applications of a less effective product and the continued exposure of children to the pest while waiting for an effective control method. Professional pest managers can best make these decisions.

- 310** 310 general requirements / Attorneys call this “throwaway language.” What does it actually mean? Can you write something more specific?

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- 310** 310 hazardous chemicals / I know how to define a “hazardous” chemical. I know how to define a “non-hazardous” chemical. I do not know how to define the “least hazardous” chemical. You are creating controversy and dissention between school officials and any person that wants to challenge the cleaning materials (chemicals) that are being used. Please modify the above paragraph so we know what to do and what not to do. “Least hazardous” will be interpreted differently in every school in the state. “School officials are to ensure...” WISHA already requires this for all employees. Also this paragraph does not apply to students in any way. DELETE.
- 310** Section 246-366-310 (3) All hazardous chemicals ... The sentence, “If chemicals are necessary to effectively accomplish the job, only the least...”, and the one following should be deleted. It is under the regulation of Labor and Industries. It also designates that, in some cases, the safest and most effective method may not be authorized.
- 310** “Only cleaners, pesticides, art supplies, or other chemicals approved by school officials are permitted.” This is a good addition as it should assist the principals and custodians in preventing teachers from bringing all manner of cleaners, paints, etc. into the classroom.
- 310** 246-366-310 (1) Based on the definition of School Facilities, how is a district expected to keep the “school facilities” dry (swimming pools, showers, exteriors of buildings)
- 310** 246-366-310 (3) Remove, already addressed in WAC 296.800.170, 296.839 and 296.62, Part B
- 310** 246-366-310 (3) Requiring that all chemicals be approved by school officials makes sense and is a positive change. Allowing only “least hazardous” or “non-hazardous” materials to be used is a huge change from recommending this practice. Who determines which chemical is “least hazardous”? This could add significantly to costs for cleaning products, pesticides and other supplies if we are limited to purchasing one “best” product to replace each of the 100+ products we currently use.
- 310** 246-366-310 (3) “Approved by school officials” again places an additional liability on school officials. How are they to determine which is the “least hazardous chemical”? This is very subjective. L & I provides governance for chemicals.
- 310** 246-366-310 School Facility Operation—General. (4) Medication shall be stored in a locked, secure location and dispensed in accordance with instructions from parent/guardian and licensed health provider. (Reference 246-370(7)(b) per Health and Safety Guide.)
- 310** 246-366-310 (3) Strike "thus lowering the risk associated with chemical use. This is a commentary.
- 310** (3) I recommend rewriting so that it states something like “If chemicals are necessary to effectively accomplish the job, school officials shall make reasonable efforts to select the least hazardous or non-hazardous chemicals... NOTE: Saying they must use the least hazardous product leaves the door open for debate regarding whether product A or B is really the least hazardous.
- 310** The draft rule on page 15, Proposed WAC 246-366-310 (3) would require that the school approve a chemical list that can be used at the school. It goes further to say that only non hazardous or least hazardous chemicals may be used. Again as I suggested earlier, school officials do not have the expertise necessary to determine this especially since there is no definition by which they can make a determination of what constitutes non-hazardous or least hazardous. In the case of some schools, I have seen lists they have developed for products that can be used based upon data that may not be scientifically sound. These schools have in essence created a situation in which the most effective (pesticides) tools to control pest populations are no longer available.
- 320** Why is there not a maximum temperature for instructional areas? 85° is too hot!
- 320** 366-320(1) Temperature control. I'm sure this is going to have the "unfunded mandate" people screaming, but I think it's high time someone gave a max temp for schools. We have rooms in a brand new building that regularly exceed 95 degrees and we are in Western Washington! Just on the student learning side, effective learning ceases under these conditions.
- 320** ---Also, I'm wondering about the custodians. Our school during the winter regularly drops down to the 50's in the evening when the custodians are present, and gets worse during our winter and mid winter breaks.
- 320** 246-366-320 (1) Do “all areas of the school used by students and employees” include hallways? Covered walkways? Cafeterias? Suggest using “instructional areas” in place of “all areas”. And is there a maximum temperature for schools in hotter areas of the state where air conditioning would be required?
- 320** Now to Heating and Ventilation and Air Conditioning design, in workgroup vote on commissioning it was unanimous, 22/0/0 and in SRDC the vote was still resounding, 12/0/2 that to not include in Rule seems unconscionable. Under temperature controls it seems prudent to address in design for maximum temperature and minimum temperature as

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system needs to be capable of meeting these. Realizing minimum is mentioned later in draft, therefore easily mentioned here, let's address maximum temperature. In the workgroup it was strongly supported(after much consideration) that a number linked to humidity be established in Rule, 17/1/1, still in SRDC this was well supported, 6/3/7 and while a higher than optimum number may be selected due to complex circumstances a number must be selected in the Draft Rule.

- 320** 246-366- 320 #1 see previous comments on min and max temperatures.
- 320** #3, define school officials. Under 3C referring to records maintaining as required in 246-366- 410(5) I believe the intent was 246-366- 410 (6), under this heading #6-A(i) this should at least be bumped to 10 years as is evidenced by current repeated incidents in some schools. Testimony to SBOH has occurred over 10 years.
- 320** At this time I believe addressing CO2 issues are pertinent. While in Workgroup a proposal for Rule using CO2 measurement in occupied spaces as means of assessing ventilation performance passed well supported, 10/4/9 and in SRDC was still well supported, 8/4/2. This should be in Rule. Also proposal recommending 700 ppm over ambient level as threshold for further investigation passed strongly supported, 11/10/2, and a SRDC vote for the same was still strong, 7/3/4. Again, it is unconscionable that this is not written into the draft for Rule.
- 320** 246-366-320(1) (Temperature): States a minimum temperature of 68 degrees, yet per the ASHRAE Standard (55-2004) referenced; acceptable indoor temperatures are 69-76 degrees during the winter, and 73-79 degrees during the summer. Perhaps change the minimum temperature to 69 degrees for consistency? Or just state the ASHRAE standard?
- 320** 346.66.320 (1) We do not agree that the minimum temperature should be changed. Temperature in classrooms impacts comfort, not health and safety. (3)c. This record keeping requirement is onerous and will not improve health and safety.
- 320** On temperatures why is there not a maximum temperature now that AC is available?
- 320** 320 HVAC Operation / This is the only reference to "employees" in the entire document. In all other places you use "staff". I like consistency within a document and urge the word "staff" here also. By using the word "employees" here, it would seem to have a different meaning than "staff." Also, although this rule will certainly address all building occupants, i.e., students, staff and visitors, DOH's direct authority is over children while L & I (WISHA) addresses "employees" so this jumps out and seems weird. This entire section should refer to ASHRAE, the Sustainable Schools rules and the energy conservation standards adopted for all state buildings. DELETE
- 320** 320 HVAC Operation / This section needs a standard to comply with. Cite ASHRAE somewhere and WAC 51-11, the state energy code, if applicable.
- 320** Section 246-366-320 (1) All areas of the school facility used by students and employees ... 68 degrees ... ASHRAE ... relative humidity Raising the temperature from 65 to 68 degrees has a significant impact on cost. Has a cost benefit analysis of this change been conducted? Are the health-related factors associated with this change documented to show a significant benefit? We currently have a policy of heating classrooms to 68F during the heating season. Adding other spaces, such as hallways, cafeterias, auditoriums, etc., will substantially increase our costs. The reference should be for "All instructional spaces except gyms used by students ...".
- 320** Section 246-366-320 (2) When thermostats ... Thermostat Recycling Corporation The disposal of mercury thermostats is under other regulatory agencies and not administered by DOH. In addition, this section is espousing a specific organization at the expense of other private enterprises. This section should be deleted.
- 320** Heating, Ventilation and Air Conditioning Operation (246-366-320). Why was a maximum allowable temperature for classrooms not included in the regulation?
- 320** (b) Very vague statement on how operations should not adversely affect the quality of indoor air. Are we talking about toxic contaminants, dust, perfumes, popcorn smell, etc?
- 320** Keeping all records pertaining to HVAC/mold/IAQ is impossible. It would entail tremendous amount of time and perhaps new storage facilities.
- 320** Proposal 3A was voted by the SRDC Committee as rule. The final sentence in the Proposal read "The *minimum* temperature currently established in the SBOH rule is to be retained in the rule" The draft includes in 246-366-320 (1) the minimum temperature will be 68 (previously 65). This is an increase, not retention.
- 320** 246-366-320 (1) what is the basis for increasing the minimum temperature from 65 degree to 68 degrees? This increase in minimum temperature has a direct affect on costs of energy. This area should also include "during normal school operating hours". Most HVAC systems are programmed to shut-down or work at minimum capacity during certain hours,

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- yet some teachers choose to come to the schools and work at all hours of the day and night, weekends included.
- 320** SRDC PROPOSAL E [Proposals 9A & 9C] WAS OMITTED Recommend the use of CO2 measurement in occupied spaces as a means of assessing ventilation system performance, as part of an on-going facility operation & maintenance program by trained and qualified personnel. CO2 levels greater than 700 ppm over ambient level is a threshold level for further evaluation of ventilation system performance. Voting close 11/10/2 Thought we were told that when voting was so close it would go to rule.
- 320** Heating, Ventilation.... (7) Add proposal SRDC 9A The use of CO2..... Reasoning: The voting should be rule.
- 320** (9) Add SRDC Proposal 9C CO2 levels greater than 700 Reasoning: close vote, a precaution
- 320** Page 16 Humidity section needs to be strengthened. See page 6 of 3.24/2005
- 320** 246-366-320: (Paragraph 1) – This statement may require humidity control, which will significantly increase the costs in equipment and controls.
- 320** 246-366-320 (1) Strike last new sentence "To prevent health problems...." This is impractical and impossible to control.
- 320** 246-366-320 (3) (a) Should mention that the system should run continuously during operating hours.
- 330** Will mold testing be required?
- 330** Like how we are focusing on dealing with moisture issues versus sampling for mold.
- 330** Section 330(2)(a) page 16, it could take days, weeks, or months to find the cause of a leak, so 24 to 48 hours is not realistic.
- 330** The draft lacks enforceability RE: Mold
- 330** Liability worries inhibits cleanup of mold.
- 330** It needs to be clear that painting over mold is not an acceptable mitigation measure
- 330** It would be useful for DOH to develop a model Mold Response Plan
- 330** 246-366-330 (Mold): If you were to take this section of the rules literally, then a small patch of mold on a ceiling tile, or a moldy sponge or book that you would immediately discard would require school-wide notification. There is no indication as to the minimum amount of mold that would trigger initiation of the mold remediation plan and notification requirements. Notifying all school parties of an insignificant amount of mold would be nonsensical and would just unnerve those individuals that believe no amount of mold is acceptable or safe. Informing the instructor in a room that may have reported the minor amount of mold, yes. But the entire school population?
- 330** 246-366-330 (2) school officials shall "frequently" – could we be more specific about how frequent frequently is?
- 330** 246-366-330 p.16/24 having to do with mold....does this also pertain to roof leaks? If so, I see challenges in being able to meet the time table for remediation. At the end the new language on boards responsibility. How will boards be informed of their requirements? Cannot leave this message without adding to others' concerns over the cost of the drinking water testing, even though we all can agree we need safe drinking water.
- 330** 246-366 -330 Identify school officials.
- 330** Under #1 if I recall several years ago OSPI I believe committed to development and implementation of these. Perhaps they've got it done? (I don't think so), however it might be prudent for DOH to oversee this with their experts available in the field (Harriet Amman). Under #1 (iii) add "and other users" (concerned persons). Under #1(ii) or maybe #1(iv) it seems wet or dry forms of mold should be mentioned (as both are health concerns according to Harriet Amman in Workgroup forum).
- 330** Under #2, define school officials and also frequently again add wet or dry forms of mold. 2A define school officials (perhaps add "qualified or trained").
- 330** 2B (i) add "and other users". Also 2(b) (iii) Under this heading several places are missing Accommodations (not options) for sensitive and concerned individuals until remediation is complete. This was strongly supported by vote for Rule in Workgroup, 12/5/5 and SRDC upheld support, 11/1/2 although verbiage was changed to problematic (law with no bite) term options. Draft this into Rule with proper verbiage. Also a second proposal calling out accommodations in workgroup on communications plans gained very strong support for Rule, 13/8/1 and again SRDC strongly supported its counterpart 11/2/1 changing verbiage or omission of these elements cause me in these days of rampant examples of gross

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- misconduct by many agencies to become suspicious of this portion of the process.
- 330** Ensure that toxic mold is prevented and, when necessary, cleaned up promptly in a way that protects students and the school staff (Received from 82 persons)
- 330** 346.366.330 This section should be deleted. Requiring "mold plans" has been rejected by the legislature and should not be included in this rule. If this section remains, it should be advisory to schools who want to develop mold prevention and remediation plans.
- 330** Costly and onerous requirements.
- 330** Mold testing when and for what type of mold is questioned.
- 330** Limits school board policy and is alarmist when notification immediately required.
- 330** Remove mold remediation section.
- 330** It's good to be pro-active when it comes to mold. Are these timeframes for cleanup applied to existing mold? 246-366-330
- 330** 330 Mold / Another Plan! Schools already have asbestos plans, accident prevention plans, security plans, evacuation plans, and on and on and on. This proposed WAC requires three more plans; Mold, IPM and Communications. Every regulatory agency wants more plans in the schools. OSPI wants everything in one All-Hazards Plan. WISHA want the accident prevention plan to stand alone. Where will it stop? Drop the requirement for additional plans and simply put the requirements into the rule; e.g., eliminate (1) above and below. Make 2 into 1. Modify 2 (1) as noted below.
- 330** 330 Mold Notification / Although I am not opposed to notification when appropriate, it is not always appropriate. For instance, we recently went to a school where the teacher reported some moisture in the wall. We opened up the wall and discovered a very small patch of mold (approximately 2 inches x 2 inches). We cleaned the mold, removed the wet insulation and sheetrock, fixed the wall to stop the water intrusion and then dried out the wall over the following weekend. On Monday morning the school maintenance person showed the clean, dry wall interior to the teacher. In the afternoon he replaced the insulation and wallboard and painted the surface. I see no reason to notify all of the students, parents and staff of that school for a minor and routine instance such as this. Notification takes both time and money. It should be utilized when necessary but not in every instance of routine, minor maintenance.
- 330** The health effects of mold are not yet determined and are currently being studied. There are also no agreed standards regarding mold contamination. What will be the expected action levels for response by schools? For example, will a little mildew in the grout tile warrant notifying parents, etc.?
- 330** What does "frequent monitoring" of water intrusions mean?
- 330** How do you "observe" mold? Should a classroom or building be evacuated because of an inch of dark material deposited around a window seal?
- 330** Do students, parents and staff need to be notified of every step of an investigation and remediation or should the data simply be made available to them?
- 330** 246-366-330 (1 iii) When and how do you "communicate"? This leaves a lot to be interpreted and does not provide clear guidance.
- 330** 246-366-330 (1 iv) How long do we keep the records, what type of records must be kept. Very onerous. Not addressed in the AG's Records Retention Schedule.
- 330** Add SRDC proposal 12A Abatement by trained and qualified staff or firms
- 330** (2)iii Add include visitors Reasoning when an outside company employee came to fix the computers at Cle Elum. He ended up getting sick due to his exposure, see newspaper article.
- 330** Page 17 (9) MANDATORY EVACUATION Reasoning: This definitely needs to be put in. When schools should be evacuated so the problems can be evaluated without jeopardizing the health of the occupants.
- 330** These rules must ensure that toxic mold is prevented and, when necessary, cleaned up promptly in a way that protects students and the school staff. We are concerned that these rules allow schools to police themselves on mold inspections and remediation. With the history of many districts ignoring or covering up mold problems, we are greatly concerned that these practices would continue under the draft rules. There must be more oversight from a statewide agency in preventing and responding to mold problems in our schools.
- 330** In addition, fungicides are often used to treat mold-infested areas inside schools. Fungicides pose serious threats to

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human health, and are especially dangerous to young children. These rules need to ensure that dangerous fungicides are not used around our children or school staff, and that mold is removed. Compounding exposure to mold with exposure to dangerous pesticides is not a solution.

- 330** How will DOH ensure that schools are responding immediately to mold that teachers or staff members report?
- 330** How will DOH ensure that local health departments have the capacity and training to adequately prevent, identify, and remediate mold infestations?
- 330** How will DOH ensure that mold remediation efforts do not include the use of dangerous fungicides that can pose a threat to children and worker's health?
- 330** 246-366-330 Mold – (2) “Frequently monitor” is vague. (a)(i) it may not be physically possible to eliminate the cause of water intrusion within a 24-48 hour period. Temporary measures to minimize intrusion should be allowed. (b)(iii) “Notify” – this may actually cause more harm than good. In a situation where a mold condition is identified and corrected early on (and students and staff are not affected due to relocation or exposure), full notification may be impractical and may cause rumor and over-reaction. Allowing district officials the discretion to determine what needs to be communicated, to whom and when, makes more sense in all but the most serious cases.
- 330** We further recommend the elimination of 246-366-330 paragraph (1) in its entirety. This paragraph opens the door to a paperwork effort that is neither necessary nor productive. The corrective actions for a mold problem are well handled in paragraph (2) with the exception of (2) (b) (iii). That aggressive notification requirement is totally excessive for minor mold occurrences that can be easily cleaned and removed by maintenance or custodial personnel. If notification is reserved for major mold problems we will need to know what constitutes a major mold problem within the context of this WAC.
- 330** 246-366-330 (1 ii) and (2 b iii). The communication piece of this proposed rule needs to be carefully spelled out. Failure to “warn” claims can be triggered if the level of hazard is not delineated by the rule requiring communication or notification. When to communicate is very subjective.
- 330** Mold response plans for each school district. Sound great on paper. But what happens when you have a school district, like the Seattle Public Schools, that merely paints over mold, and then leaves it? That is THEIR plan. They refuse to accept orders from doctors at the UW Medical School, and the Fred Hutchinson Cancer Research Center, that the mold in a high school is dangerous to their patients, and that the patients SHOULD NOT ENTER the classrooms until the mold contamination is remediated. Under your codes, the Department of Labor and Industries could not move in to correct the problem. Because the WAC Codes would give them the STATUTORY AUTHORITY to make their own decisions. Here is a major question for you: If a school district ignores UW doctor orders about mold, what make you think they will follow any state guidance, or state rules, without facing non-compliance penalties?
- 330** Mold section Who is to do this? What expert guidance is to be used?
- 330** Guidance (does this exist? If so, where and is it reviewable?) There are a number of guidance documents for mold remediation, including for special buildings such as schools, but I have not seen such from DOH. To do this, training of building personnel, i.e. cleaners, maintenance people must be provided to give them guidance in looking for moisture problems, and a call-down list established that allows them immediate access to decision makers that can engage and pay for remediation/drying companies to come in to address the problems.
- 330** 246-366-330 (2) (a) (ii) Drying should be Dry.
- 330** 246-366-330 (1) (a) and (2) - Mold monitoring should only be required if there is water intrusion or moisture accumulation.
- 330** *Section -330: Mold Prevention & Remediation* Mold is one indoor air quality issue; albeit a prevalent one in recent years. We should not lose sight of indoor air quality issues overall, which is generally addressed in Section -320.
- 330** (3) I would add something that allows the substitution of other remediation methods found acceptable by the LHO or DOH. Over time appropriate standards may be developed that are not “national”, and the approval authorities should be able to choose them with proper justification.
- 340** 340 Define “temporary food events”. See notes above. WAC 246-366-130
- 350** **SRDC Proposal 15: Testing drinking water will be the most burdensome component of these rule changes. The Lead in drinking water protocol is nearly impossible to follow. With approximately 60 Fixtures in a typical elementary school the time frame established to perform an accurate test while making sure valves are not open during this period will mean the facility is off limits to all for a number of hours. This leaves the only available testing time to occur during summer months I believe each test will take about 5 minutes, including documenting and following the testing lab procedures. This would take about 3 1/2 hours per site. These sixty tests will cost the district about \$10 each. Our district has 55

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facilities, for a total cost of \$33,000 excluding labor. Labor will also be a cost for the district. This could reach \$5,000. Quality assurance will be difficult to maintain. If a faucet is turned on unknowingly before the testing is complete then there will be no way of knowing which of the 60 samples are a true and accurate test. Each district will do their best but there will be unintentional false readings.

- 350** 246-366-350(5)- How will a school district know that a corrosion control process has changed. That is not information that a water purveyor is required to communicate to customers.
- 350** Proposed 246-366-350—Water Monitoring for Lead 3 pages of water quality information on lead is just too much. Why not just reference the Water WAC
- 350** Could a field test kit such as those in pools be used to determine where sampling (lead) should occur?
- 350** EPA's sampling profile is too vague. You need to sample all the taps but that is expensive so look at something like sampling a small number of taps, then see what those results are. Then branch out by picking say 10% from a wing or pod and if there are any failures then sample 100% or do a random sampling of taps (10%) after you conducted your baseline as your follow-up to keep costs down (University Place School District anticipates it will cost \$3,000 for lead testing).
- 350** Need more of a cookbook type guidance.
- 350** EPA guidance recommends sampling every 3 to 5 years, why was 3 years picked?
- 350** Requiring notification of unsatisfactory results within 30 days is too soon. Need time to do follow-up sampling, translate into multiple languages, and determine next steps.
- 350** Allow not only written notification but also electronic such as posting on school website.
- 350** Didn't remember discussion in the water subcommittee about the two step process for lead testing.
- 350** Sampling from prioritized sites alone will not provide enough information, look at either sampling all sites or prioritized sites plus some percent of remaining taps.
- 350** Should be able to use field sample test kits to keep costs down.
- 350** Developing a plumbing profile will be onerous, have no idea about building additions, would have to dig up pipe to know what is there.
- 350** Plumbing profile is onerous.
- 350** Notification timeline required for Drinking Water conditions is too quick ... should be relative to the level of urgency.
- 350** 246-366-350: I think this whole section is too specific. Could we not just reference the EPA document as guidance/requirements instead of spelling out all the details?
- 350** Now, how to address 246-366 -350. On reviewing Workgroup and SRDC documents I am appalled and insulted that you would think this was a productive document addressing minimum standards pertaining to water! As I read in Workgroup votes were mostly unanimously and at least well supported for Rule by vote and at least well supported for Rule by SRDC. I am inclined to send you back to the Draft table to add much more into Rule.
- 350** The proposed rules call for follow-up testing, and seem to imply that it takes two results over the action level to require remediation action. See 246-366-350 (6) (A) and (b). If the results of the follow-up test are above the action level, action is taken, but no action is required if the follow-up test is below the action level.

Last night I asked where the two-step testing procedure came from, and the response was from the 3Ts document. I've looked at that, and don't think it really describes a confirmation test. What it describes on pages 29 and 30 is an initial standing sample, followed up by a flushed sample. The purpose is to figure out where the lead is coming from, not to decide whether to take action. Action is needed either way, based solely on the initial sample result.

Actually, I think this is not a practical approach, since it requires two trips to the school, and I would rather just collect both the initial draw and flushed samples at the same time.

In any case, your rule needs clarification. I read it as requiring a confirmation test, and that's how you understood it, and yet 3Ts doesn't seem to permit that.

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- 350** 246.366.350 This section should be deleted. Both federal and state lawmakers have repeatedly rejected this unfunded mandate and the department should not circumvent the legislature by implementing this requirement by rule. If this section remains it should be advisory to schools who want to develop water quality monitoring.
- 350** If this unfunded mandate is to remain in the rule, this section must be rewritten in its entirety. Requiring a plumbing profile for every building is a huge undertaking and should not be required as a part of any sampling plan. In addition, Schools are already required to maintain records of lead testing and communications, adding a requirement that all plumbing changes be tracked is unnecessary.
- 350** If this requirement is to remain, it should be modified to acknowledge the differences in building age and local water conditions. Schools with undetectable or low levels of contaminants should not be treated the same as schools with higher levels.
- 350** Testing protocol should not be included in the rule. The EPA and certified testing labs provide the direction needed.
- 350** (8) Recommendations should not be included in rule. This section is problematic and should be removed.
- 350** Creating and maintaining a plumbing profile for each school facility is onerous and extremely demanding of school district maintenance resources.
- 350** Half the rules given are already addressed by EPA.
- 350** Plumbing profile is onerous.
- 350** Do not require informing public of lead prior to correction unless a certain level of lead is noted.
- 350** Even after testing, and establishment of new baseline, these rules require repeat testing at an on-going cost.
- 350** 350 Lead testing / I am not complaining about the lead testing – obviously EPA will convince everyone to lead test in the coming years. I do have a few comments and brainstorming ideas: Where will schools get the money to do this? Will school districts have to run levy elections to provide the money? What happens if the voters turn it down? The SBOH asked this question of themselves at the March meeting. The source of funds for testing and other new requirements in this rule must be identified prior to any attempt to adopt this new rule or I think schools, ESDs and OSPI might public ally oppose the adoption.
- 350** 350 Lead testing / Note: New EPA rule will require testing at all schools – not only elementary schools. Why are we testing all schools when the target has always been six year olds? Could we only test elementary schools? One way to potentially save the taxpayers a lot of money would be to perform a screening test at all schools and then do extensive testing at the ones that fail. Screening tests could be performed with non-certified equipment by school personnel. This idea would certainly not meet EPA standards but could be a good starting point for this new program. Another way, the one that I would recommend, would be to have local health districts purchase the necessary equipment and provide the lab testing for schools. They already test for bacteria, so they must already have a lab and some expertise available. Spend the money to improve local health district capabilities and save school districts the higher cost of utilizing private labs.
- 350** 350 Lead testing Costs / Cheney School District did testing with the “Governor’s money” last year. Following is a report on that project that includes total actual costs. Please consider the impact to a school district from this actual report.

Jim,

Because lead is most damaging to kids up to the 5th grade it was not required that we test our middle school or high school. We wanted to know about them anyway so 10 random samplings were done at both of these sites as well 2 samples from each of our Administration, M&O office and Transportation office. The samples at the elementary level were taken from cold water only sources at all faucets and fountains from classrooms, bathrooms, kitchens and icemakers. Kids as we all know will drink water from any source. We tested for lead and roughly every 15 tests we also tested for corrosivity.

We happened to have very good results from all of our testing except for a 1976 section at one of elementary schools. The approved “fix” if a problem was found was to run the water at each fixture for a minute in the morning, we did not feel that was a very realistic fix so we changed those faucets and bubblers out and retested those problems. We did not do copper tests. We happen to be fortunate enough to have certified lab a few blocks from our district and they were willing to help us price wise. Their standard fee is 20 dollars for a lead test and 20 for a copper test or 30 for both. Their

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corrosivity test, tests for alkalinity, hardness, dissolved solids and temperature. Our cost was 13.00 for a lead test and 50.00 for a corrosivity test.

For five elementary schools one of which is small (Reid) the lead testing and the retesting and the random sampling cost the district \$5057.00 for 389 tests. The corrosivity tests were an additional 1250.00 for 25 tests. The new faucets and bubblers and associated plumbing for 16 classrooms for the 1976 section in the one elementary was around \$3000.00. The retesting of that section was \$250.00. The labor for those installs was 24 hours at \$20.00 an hour \$480.00 dollars. The total cash out of pocket was \$10,037.00.

Labor, because of the times that were required to do the testing was overtime at 25.00 an hour for 8 people for two days four hours a day for a total of 1600.00 dollars. The tests require two people to work as a team for reliability issues. The paper work and computer time was 48 hours for two people for a sub total of \$1200.00 for a total of 2800.00. So the grand total was \$12,837.00. More than I thought. If we had included the copper test it would probably have been another \$3112.00. So if we are forced to do this it will cost us around \$12,000 every three years since we won't have to do the replacement of faucets next time.

These costs reflect everything going as planned; if a district has a lot of replacement or more work involved the costs could easily go through the roof.

We received 1500.00 dollars as a reimbursement from the state.

Jeff McClure

Maintenance Supervisor at Cheney School District

- 350 350 / All EPA certified labs should be approved for use.
- 350 350 3-year sampling cycle / Where will schools get this money? What will be eliminated in place of water testing? Textbooks? Roof maintenance? Other safety programs?
- 350 350 Other tests / School officials "may..." **and will be required** as soon as the public see this in the WAC. If this is not a requirement it should not be included into this WAC. Already, at the March SBOH meeting, a person at the meeting asked to have the word "may" changed to "shall." This is nothing more than an inflammatory sentence that will cause problems with the adoption and implementation of this rule. Delete this paragraph!
- 350 30 days at 7a is too short of a turn around time given lab testing times.
- 350 If something is not required, don't add it; even being noted makes it a de-facto requirement.
- 350 Employee safety committee could be duplicative of 6c. It could also allow a safety committee able to prescribe something that isn't required.
- 350 Page 18, Item 5 - The proposed rule identifies a requirement of testing every 3 years even if the building was recently constructed and has used all lead free components. Current regulations require domestic water systems be installed with lead free components. Current regulations require water purveyors to test their water systems annually. This is an added financial burden with minimal benefit.
- 350 Section 246-366-350 (5) (a) ... lead ... three year sampling cycle ... drinking water Who will provide the funding to carry out the program? In addition, buildings built with lead-free plumbing should possibly perform a baseline study to assure proper materials were used, but should not be obligated to perform subsequent sampling. This would obviously be a waste of funds.
- 350 Section 246-366-350 (6) (c) If the follow up samples ... lead action level ... Environmental Health and Safety Advisory Committee To have a regulation espousing a construct not under the regulatory purview is duplicitous. The above committee will not happen because schools cannot get staff to serve on these functions without reimbursement. No extra pay, no stay. Delete mention of the committee. School staff and/or consultants with experience in these matters should be in control of how best to address the problem.
- 350 A plumbing profile and 3 year cycle of sampling is onerous. A plumbing profile is exceedingly time consuming and almost impossible in some old buildings.
- 350 Why do we need to duplicate the existing EPA suggestions for drinking water assessment and turn them into requirements?

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- 350** Testing and monitoring lead content and drinking water quality in general is another example of school districts confronting problematic issues as they arise. A number of districts, such as Kent, had already started and were well down the path of ensuring quality drinking water in all facilities when it was determined that Seattle School District was having problems with the quality of their drinking water. The increased awareness of potential for harm caused school districts across the state to voluntarily test their drinking water without any mandates from the Department of Health. While emotion exhibited at some of the recent meetings might attempt to indicate otherwise, school districts are not evil institutions that do not care about the health and safety of students and staff. It is the primary responsibility of maintenance and operations to maintain school facilities to the highest standards allowed by the resources allocated. This also pertains to the mold and moisture problems that occasionally arise. School districts do not need unfunded mandates to make sure our facilities are safe; the vast majority of school districts resolve these types of issues without mandates. As a challenge to illustrate just cause for such mandates, WAMOA hereby requests that the Department of Health prepare and make publicly available statistics related these types of problems and a comparison of them against the two hundred and ninety six school districts and thousands of school facilities to analyze the percentage. We feel it is unjust to penalize the majority of school districts who in good conscience perform the work necessary to provide a safe and healthy environment.
- 350** There were a few key proposals made during the SRDC Committee meetings, where the majority of the SRDC committee voted to establish proposed changes as "guidance" versus "rule", yet in this draft, they appear in Rule. 246-366-350 (SRDC Proposal 15); Water Quality Monitoring for Lead
- 350** 246-366-350 Remove, EPA already addresses this
- 350** This whole water section seems to have been really diluted when you have so many of these proposals in guidelines. You know if they are kept in guidelines they will not comply. Another Unfunded Mandate, need to find the \$\$\$\$. Is this an example of our prisoners having more rights than our schools when it comes to health issues? If you don't require it you know it will not be done. Test the schools water system for all these conditions/problems and reward those schools that pass by having them test every other year.
- 350** For instance proposal #18 Reporting and Notification At Blakely School on Bainbridge Island we had been having trouble with our water since 1974. Only we were not told about it. We were not told that they were trying to fix the problem by trying to chlorinate the system. We found out by drinking the water and having it burn our mouths. The water tests failed 13X from 4/13/92-6/1/93. We were finally sent notification from the school 6/23/93 14 months after the problems started. It wasn't because the school was doing the right thing. I went down to the office and demanded to see the test results and released it to the paper. WHERE WAS THE DOH AND LOCAL HEALTH JURISDICTIONS? Aside from the fact that this is against State and Federal law
- 350** Page 18 (4) (iii) Add SRDC Proposal 15 Sample size, action level sample location,..... Reasoning: Voted in Rule, did not see it in draft.
- 350** Add SRDC proposal 16 Copper in Drinking water Reasoning: Why isn't this put in when the voting is so close. Shouldn't we ere on the side of safety, and putting some teeth in this draft. We heard testimony on 3/8/06 From a parent whose child became sick because of copper in the schools' water.
- 350** Add SRDC Proposal 17 Cadmium in Drinking Water Reasoning: Aren't we trying to give our students/teachers the cleanest water possible? We saw some of the water that Mark Cooper brought to the 3/8/06 meeting. We wouldn't give it to our animals. Couldn't all of these water tests be done at the same time, and if a school passes then perhaps they test every other year. Don't we want to find out if schools are having problems with their water?
- 350** Add SRDC proposal 18 Water Reasoning: Aren't we trying to give our students/teachers the cleanest water possible? We saw some of the water that Mark Cooper brought to the 3/8/06 meeting. We wouldn't give it to our animals. Couldn't all of these water tests be done at the same time, and if a school passes then perhaps they test every other year. Don't we want to find out if schools are having problems with their water?
- 350** Add SRDC proposal 19 Water Reasoning: Aren't we trying to give our students/teachers the cleanest water possible? We saw some of the water that Mark Cooper brought to the 3/8/06 meeting. We wouldn't give it to our animals. Couldn't all of these water tests be done at the same time, and if a school passes then perhaps they test every other year. Don't we want to find out if schools are having problems with their water?
- 350** Add SRDC proposal 20 Water Reasoning: Aren't we trying to give our students/teachers the cleanest water possible? We saw some of the water that Mark Cooper brought to the 3/8/06 meeting. We wouldn't give it to our animals. Couldn't all of these water tests be done at the same time, and if a school passes then perhaps they test every other year. Don't we want to find out if schools are having problems with their water?
- 350** Add SRDC proposal 21 Remediating drinking water pipes with epoxy liners This was voted into rule, but I couldn't find it in the draft.

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- 350 As for the lead testing in water, flushing should not be an acceptable remedy for high levels of lead. Flushing pipes only masks the problem for a short while, and continues to put our students at risk of exposure to high levels of lead.
- 350 How will DOH ensure that districts are testing for their water for lead and permanently solving problems that are found?
- 350 Why don't the rules include testing for copper, cadmium, and toxic leachates from pipes in school drinking water?
- 350 Section 246-366-350 (8) should state that Local Health Jurisdiction (LHJ) might request water testing during complaint investigations. An additional, section 246-366-350 (9), should include a section stating that the LHJ may review all the testing procedures, perform third party duplicate testing, and insure that interim control measures for lead and other water problems are acceptable, and if interim control measures are used, the LHJ will insure they are maintained.
- 350 246-366-350 – Lead - This portion of the proposal is broad reaching, poorly constructed, and would cost districts thousands of dollars each year. It sets forth both bad science and bad business practices. Example – if a school facility installs 50 identical sinks or drinking fountains at the same time, this proposal does not allow for any form of random or portion sampling – a practice used in any scientific or statistical analysis. It also requires that all fixtures be tested repeatedly – even if no changes have occurred to the building or the fixtures. The additional fact that there is no source of funding provided for testing or remediation does not help this cause. Surely we can find a more balanced and reasonable way to identify and remediate lead contamination problems than this.
- 350 246-366-350: (General) – Appears that in lieu of all the requirements and procedures stated, it may be prudent to just require the use of a certified Lead Test Consultant, using accepted practices is all that needs to be stated.
- 350 With regard to the establishment of a drinking water testing program that focuses on lead in drinking water, the proposal provides a great deal of detail on how the program should be run but leaves out a critical discussion on how sampling plans should be formulated. I recommend that the discussion of sampling plans be beefed up since the EPA reference also fails to provide any specific guidance in this area. In addition, I wonder how we will accomplish and pay for a plumbing profile that will extend over our 1.1 million square feet of educational space.
- 350 *Section – 350: Water Quality Monitoring for Lead* (7) Notification Requirements: In addition to notifying staff, students and parents and users of the facility when lead levels meet or exceed action levels, there needs to be educational material sent as to what this means. This would include information regarding the amount of exposure required to have health effects, what the school is doing to prevent exposure to the fixture that tested high. It is dangerous to issue a warning without the contextual information as it can cause people to be unduly alarmed. This is addressed somewhat in *Section -410(5) Communication*, however guidance documents as to how to effectively communicate this information in a manner that provides people with the factual information in context of the health risk it presents should be provided.
- 350 Add Group B where Group A is referenced. Schools smaller than 25 people may be on a Group B system.
- 350 Add mandatory sampling for cadmium and coliform bacteria. The cadmium should be tested along with the lead. The coliform bacteria testing should be done annually on the school plumbing system.
- 360 246-366-360 – Remove already exists in 246.272a or 246.272b
- 360 General Corrections 246-366-360 Onsite Sewage Treatment And Disposal Systems. (1) On-site sewage disposal systems must be maintained in accordance with applicable rules in chapters 246-272A or 246-272B WAC. (Add the word "be").
- 370 IMP is overseen by Department of Ag, so why is DOH involved?
- 370 Concerns for pesticide use in schools / needs to be strictly limited
- 370 Development of a state model IPM plan would be helpful to school districts
- 370 Section 370 (1)(b) page 20, instead of developing an IPM plan, could a plan or example developed by WAMOA be used?
- 370 Under heading 246-366-370 I feel it is a crucial concern to mention remediation of damage as it is a health concern and supported in Workgroup by vote for Rule, 14/2/0 and SRDC vote 11/2/0.
- 370 Add specific language to prevent the use of pesticides that cause cancer, nervous system harm, or other serious health effects (Received from 82 persons)
- 370 IPM plan – do they have to make up their own? WAMOA would want to help if DOH helps provide one.
- 370 WAC 246-366-370 (1)(b) Use of the term "least hazardous" in your definition of IPM conflicts with RCW 17.15.010 "(d) Treating pest problems to reduce populations below those levels established by damage thresholds using strategies that may include biological, cultural, mechanical, and chemical control methods and that must consider human health, ecological impact, feasibility, and cost-effectiveness." By limiting methods to an undefined "least hazardous," you may

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be preventing the most effective, feasible and cost-effective methods. Again, professional pest managers are trained to make decisions, using IPM, to determine the most appropriate method for the situation. That method may be different depending on whether the building is in use, when children might next be present, the type and severity of the infestation, etc.

370 Pest free management is impossible.

370 Section 246-366-370 (1) (a) Maintain ... free of insects and rodents It is impossible to be free of insects. Somewhat more success can be had in being free of rodents. Insert the word "reasonably" in front of all uses of the word 'free' or insert "infestations" before 'of insects and ...'.

370 246-366-370 – Remove, adopted by WAC 16.228.1220, under the governance of the Department of Agriculture.

370 Page 20 Pest management Add the communication part of SRDC proposal. Reasoning Our school district has an IPM policy and was the first in the state to have it for the entire school district. We put information in our student handout booklet. We also designated a phone line just for IPM information, and had the number listed in the phone book along with other school numbers. It wasn't a huge expense. On it was a taped message of when they were applying fertilizer, etc. and parents could phone up and listen to it. It was also put in the school bulletins prior to any applications.

370 Unfortunately, even in these new sections there are holes. The Integrated Pest Management (IPM) section, for example, calls on every district to implement IPM policies or plan, but offers only a few words of guidance on what IPM means and what IPM policies/plans should include. While these words about IPM are a great beginning, they need to go further. The rules should expand their guidance on this issue, requiring the use of IPM that is not only focused on prevention and use of least-hazardous methods, but defines "least-hazardous" as the elimination of pesticides that are linked to long-term health threats, including cancer, nervous system damage, hormone disruption, or reproductive or developmental harm.

370 Why do these rules not include language that eliminates or restricts the use of pesticides that are linked to serious human health hazards, such as cancer or nervous system damage?

370 How will the DOH enforce the requirement for IPM policies or plan? Will DOH be crafting sample policies, meeting with districts, providing resources for implementation, or training for staff?

370 246-366-370 (1)(b) Requiring (rather than recommending) that IPM utilize "least-hazardous methods" will add significant complexity and cost to operate our pest management program. (c) This duplicates DOA requirements – why?

370 246-366-370 (1) (a) No mention of birds should be included here.

370 The definition of Integrated Pest Management (IPM) on page three refers to the only existing IPM definition currently present in law. This definition goes further to suggest what IPM means for school and what the desired outcome of IPM would be for schools. On page 24 the rule would require that school officials develop and implement an IPM plan or policy that also requires schools to use the least hazardous methods. I have personally read numerous schools IPM policy that are in place and found them to be both good and bad, very inconsistent in relation to what constitutes IPM. Also the rules appear to be silent on exactly what is meant by least hazardous chemicals (definition). Having said all of the above, I believe the rule needs to spell out more specifically what must be included in a schools IPM plan or policy. Maybe the IPM policy should be built around the IPM definition that is currently in law or require the school to use the existing definition. Failure to spell out the specific requirements required of an IPM policy will only lead to greater confusion than what is already present at some schools that have developed IPM policies. Maybe the rules should include a template which spells out the minimum requirements that must be included in an IPM plan.

370 As for the least hazardous methods, it has been my experience that very few if any schools have the expertise necessary to determine what is least hazardous especially since the rule is silent in defining a least hazardous method or material. It is very possible that a pesticide may be hazardous if inhaled or exposed to, but many baits and gels are placed in areas that eliminate any possibility of exposure. I guess one could argue that the draft rules would allow this as the use of a bait of gel would be the least hazardous method. However this is not abundantly clear in the rule.

380 380 / After reading "section 140" again, I wonder why only two small items are included in this rule relating to science labs.

380 380 / These two paragraphs are apparently repeated here to make them apply to existing schools. See my previous comments about conflicting requirements of 4 feet and 30 inches.

380 Safety requirements for open-sided floor pits are addressed under other regulations

380 Section 246-366-380 (3) ... potential fall hazards... This section carries no evaluation of risk verse the cost of making a valid modification. There are many instances of 30 inch heights, including desks, tables, stages, etc., which are being

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asked to be modified or eliminated. The rule needs to be clearer as to what it refers. Is this a landscaping standard or a movement to shorten desk heights?

- 380** The fall hazard of wide, flat banister walls/railings that encourage sitting should be addressed. There have been deaths from falls off this type of banister. Perhaps the definition of a designated play surface from the CPSC guidelines could be incorporated into a requirement to design banisters that discourage climbing, sitting, or sliding. A 'designated play surface' is defined in CPSC as "any elevated surface for standing, walking, sitting, or climbing, or a flat surface greater than two inches wide having an angle less than 30 degrees from horizontal".
- 380** 246-366-380 (2) Remove, already addressed in WAC 296.800.26005 – 26010.
- 380** 246-366-380 (3) See comments above in 246-366-230 (9)
- 380** 246-366-380 Safety. (4) School officials shall protect the health and safety of students and employees in science classrooms and laboratories in accordance with 296-62 and 296-800 WAC.
- 380** 246-366-380 (2) (3) Both are already mentioned In 248-366-230.
- 390** Annual playground inspections by certified personnel are onerous. Will require hiring additional personnel to implement.
- 390** Define "frequently monitor." Avoid health dept involvement in the day-to-day operations.
- 390** Secondly, annual inspection by a certified Playground Safety Inspector (CPSI) (section 390) is a bit excessive. A CPSI is trained to do in-depth assessments of the equipment structure, which does not typically change in a year. I do think that all playgrounds should have an initial full audit done by a CPSI and subsequent inspections should then be done when any equipment is added/changed. Otherwise, regular (daily or weekly) monitoring of the site by school personnel should be sufficient for maintaining surfacing, fixing obvious hazards, and preventing/fixing vandalism.
- 390** Section 246-366-390 (4) School officials shall ensure ... Certified Playground Safety Inspectors We have school staff perform daily and annual inspections of the equipment for wear and tear and repair as necessary. Duplicating this effort at school expense is not necessary. If the Health Department wants to have a Certified Playground Safety Inspector or two on their staff to perform these inspections, they are welcome to visit our schools. Delete this section.
- 390** Playgrounds – Operations (WAC 246-366-390). School playgrounds still have a lot of old playground equipment in use that does not comply with the standards. Section (3)(a) requires that schools "prevent student exposure to the identified hazard until the hazard is eliminated". Will schools be required to rope off or tear out existing equipment to comply with this requirement? Does "identified hazards" include design and use zone issues?
- 390** It would be very difficult for school districts and small schools to comply with the requirement for annual playground inspections to be conducted by a Certified Playground Safety Inspector (CPSI). There are very few private schools or school districts with a CPSI on staff to conduct annual inspections of their playgrounds. Additionally, most small and medium-sized health jurisdictions would likely not have a CPSI on staff to conduct annual playground inspections and staff turnover may make such training cost prohibitive. This requirement also makes it very difficult for local health jurisdictions to effectively administer a self inspection program when the school cannot inspect their own playground.
- 390** A better solution would be to require schools having playground equipment to have a CPSI conduct a complete playground safety audit of each playground. Upon completion of the audit, a report should be generated for the school identifying and prioritizing each hazard identified. The school should then consult with the playground safety auditor and develop a plan to address each hazard identified. Specific methodologies for addressing issues such as the frequency for monitoring the condition of the playground, routine maintenance, repair, and the replacement of equipment should be inherent components of the plan. Once completed, a copy of the plan should be made available to the local health jurisdiction. The audit would not have to be conducted annually because the plan would be in place.
- 390** There were a few key proposals made during the SRDC Committee meetings, where the majority of the SRDC committee voted to establish proposed changes as "guidance" versus "rule", yet in this draft, they appear in Rule. 246-366-295 & 246-366-390 (SRDC Proposal 7) ; Playgrounds; including CPSC and ASTM guidelines as Rule
- 390** 246-366-390 (1) See comments above in 246-366-295
- 390** 246-366-390 (2) See comments above in 246-366-295
- 390** 246-366-390 (4) There are not enough CPSI's in this state to inspect all playgrounds Annually, Item 246-366-390 (3) addresses the need for regular inspections, which can be preformed by school district staff.
- 390** 246-366-390 (4) Why require that a certified playground inspector do the annual inspection if plans were reviewed by DOH prior to installation, the playground was inspected by a certified inspector prior to occupancy, and no changes have been made since installation? How about a provision for self-inspection or for training and certification of district

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- employees?
- 390** We currently try to keep all the staff that inspects playgrounds certified as playground safety inspectors. The cost for each person is approximately \$500.
- 390** For the playground persons responsible for hundreds of students on the playground at a time, as well as knowing what to do to prevent further injury to the students, whether or not to move students as well as how to move them. Currently there are no first aid requirements for persons assigned to supervise hundreds of students at recess. In contrast bus drivers are required to have first aid certification on the bus when they may be driving many, many fewer students. Accidents on school playgrounds are common and occur daily. Serious accidents are common and in many schools also occur daily or at least weekly. Risk management supported this rule change. Knowing the recommendations for rule changes that came from the work groups and seeing the end result in the watered down vague rules really sends a poor message to those of us with expertise, who worked so hard.
- 400** Section 4, Environmental Health & Safety Administration applies to school officials, local school boards, Local Health Officers, and the department of health and the state board of health, in their environmental health and safety functions in compliance with these rules. What is this about? Environmental Health & Safety Administration is referenced twice in this document; on Page 1 referencing the 4 sections and here on Page 21. If the topic is Environmental Health & Safety, take out the word "Administration" as there is no administration! Language change—"Environmental Health & Safety Administration"
- 410** 246-366-410(4) (a) What is the cost of the annual LHO inspections? Where can I find the fees associated with the proposed rule revisions?
- 410** Proposed 246-366-410-School Officials Responsibilities It would appear this language precludes unannounced inspections
- 410** Proposed 246-366-410-School Officials Responsibilities Language change—"School officials shall ensure that each school facility is inspected for compliance with these rules at least annually. These inspections may be coordinated with the LHO to assure that inspections are performed by either the LHO or other personnel trained to conduct environmental health and safety inspections consistent with these rules
- 410** Signage section is a problem.
- 410** Section 410(4) page 22 if LHJ's don't have the capacity to do annual inspection and there aren't enough third party qualified staff to do these, how can a school be successful in meeting this requirement?
- 410** Timeline for IAQ-related notification should relate to level of urgency... not a specified period of time.
- 410** *** 366-410(3) I'm 100% sure the Safety Core Rules (specifically 296-800-130) require any building with less than 10 employees to hold monthly Safety meetings and more than 10 to have an active Safety Committee. I'd change this part to reflect this, and that the committee you are proposing be either a formal function of this committee/meeting or, less strongly, to allow these meetings to be held concurrently with the safety committee/meetings. This has several obvious advantages.
- 410** 246-366- 410 This section seems vague. It should include more specifics and missing elements.
- 410** #4 B, 60 days seems very long as in a health crisis this is unacceptable. Maybe add "except in crisis".
- 410** 6 A (i) should be at least 10 years.
- 410** 246.366.410 Only parts (1) and (2) of this section are appropriate. We strongly object to the department of health mandating school committees, commanding the workload of District staff, requiring levels of communication with school constituencies and requiring onerous record keeping requirements on an already stressed school operations budget. If local constituents desire this level of communication and record keeping, they can request it of their locally elected school boards. Investments in these areas are the purview of local communities, not the state Department of Health.
- 410** Requiring a parent-teacher environmental health committee at each school is onerous in school administration.
- 410** Coordinating annual inspections with LHO will be repetitive, costly and onerous.
- 410** Record-keeping requirements are excessive and onerous. The storage of records would require additional storage space.

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- 410** 410 / This provides no guidance to the school official as to who is required to have first-aid training or whether they need to have a valid first-aid card or if a one-time first-aid class will suffice for many years. If you are going to include first-aid training as a requirement, tell us "who, what and when" or every health inspector and every school district and every attorney will interpret this section differently. (One of my school districts lost a lawsuit several years ago because the volunteer playground supervisor had let their first aid card expire.) CPR is included in most first-aid classes. Only Red Cross requires a person to take two separate classes. I suggest you remove the comma between "first-aid" and "CPR" in the above paragraph and treat them as one item; i.e., "first-aid and CPR" training. A person could receive the training from separate courses or a combined course.
- 410** 410 / "School officials shall..." and "This requirement may..." This wording will cause confusion. Either make the formation of an Environmental Committee a requirement (no, please don't) or add additional suggestions about how a school district might meet the requirement. In the second to last sentence, add the word "may" in the phrase "...which (may) need to be addressed." Otherwise the rule will effectively turn over the decision making ability of the school administrator to the parent committee. The school official might as well stay at home and let the committee run the entire school. Simply because some advocate on a committee thinks something is a good idea doesn't make it so. (Reference-- the March SBOH meeting.) How would a local school administrator manage his/her school if the committee were to dictate new requirements "which need to be addressed" every time they met? Or delete this paragraph entirely and let the school board and administrators perform the job they have been hired to do.
- 410** 410 / Note: The references in the K-12 Guide are woefully out of date. Since the publication of the Second Edition (2003) the Building and Fire Codes have changed, the WAC codes have been revised and now 246-366 is being revised. I hope DOH will be directed to update the Guide as soon as this revision is completed.
- 410** 410 Inspections / How did this become the school official's responsibility? The legislature gave this responsibility to the DOH and they passed it on to the LHO. Now you want to require the school official to take on your responsibility to inspect schools?! No way! This section, combined with the sections addressing the LHO's responsibilities, shifts the entire responsibility and liability onto the school officials to perform the Health Officer's duty. The result of this will be to require all school districts to either train staff to the LHO's satisfaction or to hire "LHO approved" consultants to perform the annual inspection at whatever cost the LHO determines is required to meet his/her local standard. Very clever but not very practical for the school districts. Let's clarify things— The duty to inspect schools belongs to the DOH and LHO. If school persons (trained or untrained) perform the inspections, the public will view this as "having the fox watch the henhouse." The result will be the same as taking away all WSP officers and requiring me to modify my speed on the highway and reporting myself if I speed. Not a good idea. Putting the inspection out to third-party private consultants will result in a new cottage industry of private consultants charging exorbitant prices to the schools – all for doing DOH's/LHO's legislative mandate of providing safe and healthy schools. If DOH doesn't want to be in the business of school safety perhaps the legislature should give the job to OSPI. If this "Christmas present for consultants" gets adopted, I'll certainly consider becoming a "consultant" when I retire later this year.
- 410** 410 Communication / Another Plan! Schools already know how to communicate with their public.
- 410** Page 21, Item 3 - Schools currently have OSHA required safety committees that discuss environmental health and safety issues at their facility. Is an Environmental Health & Safety Advisory Committee necessary
- 410** Page 22, Item 4 - Annual inspections by the LHO or other personnel trained to conduct environmental health and safety inspections would add substantial operating costs to the district. Costs per the March 13, 2006, Department of Health presentation were approximately \$140.00 per hour for an LHO at 8 hours per school would cost Central Kitsap School District \$25,000 annually.
- 410** Finally, while the Coalitions agree that school environmental health review should be an ongoing process, we disagree with the requirement in Proposed Rule 246-366-410(4) that schools be inspected annually. In many cases, annual inspections are not needed. Indeed, many on-staff risk managers monitor school building and site safety on a regular basis. In addition, school insurance providers perform independent reviews of school facilities and sites as a part of on-site loss control services and provide ongoing risk management consultant services. Independent of these reviews, schools are subject to annual inspections by the local fire marshal. However, if annual inspections are required, the Coalitions appreciate that the LHO may approve self-inspection by school officials or another entity (Proposed Rule 246-366-420(1)). Not only does this process enable school districts to ensure safe and healthy learning environments, it can also be used to manage effectively the costs associated with health inspections.
- 410** Proposed Rule 246-366-410(6), specifying new requirements related to school district record keeping, conflicts with the requirements of Chapter 40.14 RCW and the State Records Retention Manual. The Records Retention Manual is developed by the Secretary of State's Office and governs the retention of public records.

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- 410** We appreciate that Proposed Rule 246-366-400 recognizes that local school boards are responsible for compliance with the Rules. This statement, in itself, should be sufficient for purposes of assigning school officials' responsibility. Consistent with state and local regulations, school districts have created system wide mechanisms and processes to provide routine and constant monitoring of these conditions. In short, school districts share the same concerns of the BOH and have systems in place to readily address these concerns.
- With this in mind, the Coalitions disagree with the suggestion contained in Proposed Rule 246-366-410(3) that school districts create an environmental health and safety advisory committee at each school to oversee school environmental health and safety issues. The uniform committee concept may not be appropriate in all school districts and at all schools. Furthermore, not every district has the resources --- including financial, personnel, and time --- to support the operation of such a committee. The BOH should recognize that local control and local discretion must be respected for purposes of compliance with the Rules.
- 410** Section 246-366-410 (3) ... establishing an Environmental Health and Safety Advisory Committee... These functions are dwarfed by the many obligations of our schools to further the curriculum and instruction needs of the students. The staff at the schools demand reimbursement for the time involved in these functions. Funds which the schools do not have available. Delete any mention of the above committee.
- 410** Section 246-366-410 (4) & 246-366-420 (1) The LHO shall inspect each school ... annually... Where is the money to come from to pay for this? It will not come from the schools. We do not have the staff available to conduct and document these inspections, so it will be on the LHO to perform them.
- 410** 246-366-410 (4) Who is to verify the LHO is trained to be consistent with these rules?
- 410** School Officials' responsibilities (1) local school boards are responsible That would be nice. Didn't happen for Blakely Elementary or Cle Elum. They fought us tooth and nail. Had to bring in the media both TV news and newspaper reporters before they would budge. I could write pages on this.....We spent hundreds of hours going to school board meeting. They all knew us by name.
- 410** Consequently, we strongly object to the proposed changes that would allow school districts to be made primarily responsible for inspecting themselves and ensuring compliance with the regulations.
- 410** Page 22 (a) annual inspection by LHO or other personnel trained.....Look at the history of Kitsap [Kittitas?] County and Cle Elum LHO. I pleaded with our LHO, called, wrote letters and faxes. Nothing..... Cle Elum LHO was trained in water or playgrounds.
- 410** (5) Communication (iiii) Site posting reasoning: DIFFERENT THAN POSTING NOTICES IN SCHOOL OFFICES. Let people know what rooms are contaminated so they can avoid them is necessary. EXTREMELY IMPORTANT
- 410** Section 246-366-410 (4) should include a (c) section that requires the school district to respond to all issues addressed in the inspection reports within 30 days. The response must include how these issues were addressed, a time frame when these issues will be addressed, or why these issues are not a problem. Disputes could be resolved, or mitigated, by a committee appointed by the State Department of Health, which would include representatives from the school, parent group, and Environmental Health Specialists.
- 410** Public notification of various issues (mold, IAQ, HVAC, water, playground, etc.). As a parent & school administrator I'm not sure if these public notices cause more over-reactions as opposed to assurances. Our school would not abuse or ignore problems that need addressed. Safety in our schools is a top priority as I'm sure it is in most if not all other schools. I feel you are listening to the vocal minority as opposed to the majority who are living and experiencing school issues. I'm sorry for the children and their parents who have suffered due to school issues but please come into districts and see for yourself what is happening and how schools are operating.
- 410** 246-366-410: (General) – Who funds these requirements? Isn't this already required by SPI in some form?
- 410** 246-366-410 (2) this is way too broad. Who is to be trained in First Aid and CPR? If this rule is designed to expand beyond the requirements of existing L & I rules, school-bus driver rules, then new rule must dictate who is required to be trained (and a funding source must be found).
- 410** 246-366-410 (4) How can the School Official "ensure" each school facility is inspected for compliance and coordinated with the LHO if the LHO (who the district has no authority over) chooses not to support school inspections (because of lack of staffing, training, funding, etc.)?
- 410** 246-366-410 (3) This will prove Impractical and difficult to accomplish, by Including individuals who are unfamiliar with both the process and appropriate remediation techniques.
- 410** 246-366-410 (4) (a) Will the RCW allow this re-authorization of authority? Who will provide the training?

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- 410** 246-366-410 (5) Can the SBOH dictate communications plans to school districts?
- 410** Add Reporting to accident, injury illness data section: Monitoring, reporting, and record keeping for death, injury and illness. Such as: (1) Reporting death, injury, and illness. School official shall: (a) Provide the department or local health officer with information requested regarding the investigation of an injury or illness associated with the School Facility. (b) Notify the department or local health officer of a death, serious injury or serious illness associated with the School Facility within forty-eight hours after becoming aware of the occurrence. (2) Incidents. School official shall provide the department or local health officer with any information requested regarding the investigation of an incident creating a potential health or safety problem.
- 410** (6)(a)(iii) Should food service and OSS inspection and monitoring records be made available, too?
- 410** After reviewing the proposed rules I feel as if the many months that I volunteered on the workgroup were of little value and a waste of my time and expertise in school health. The proposal recommendation from the workgroup on first aid requirements was significantly different than the one in the currently proposed rules. The proposed rule is so vague that there is no value in wasting the space on the page. While admittedly the building administrator is knowledgeable about the building needs it is well known that with school districts' limited funding first aid will fall out of priority status. One administrator has been known to say "that's what we have insurance for" in response to not requiring or financing first aid for selected school staff. This rule needs strengthening for the safety of today's students. The recommended rule was specific as to the staff dealing with children being required to have First Aid/CPR certification. The reasoning behind this requirement to assist the staff in schools who are providing health care to students with very complex conditions that attend our schools.
- 420** Proposed 246-366-420—Local Health Officer's Responsibility This mandatory inspection requirement may be difficult for some LHO's to comply with as it is viewed by some to be an unfunded mandate and would require resources not readily available to many.
- 420** Proposed 246-366-420—Local Health Officer's Responsibility Language change—"Schools shall be inspected annually or upon request by school officials for compliance with these rules. Inspections may be conducted by the LHO, Secretary of the Department of Health or by another entity to assure compliance with these rules. Pursuant to RCW 70.05.060, the LHO can establish a fee for any and all activities related to school inspections.
- 420** . Similarly, the proposal to allow waivers from the requirements upon a showing of a purported undue burden upon districts is also unacceptable. Such provisions would do no more than put the fox in charge of the henhouse. Washington's students and educators deserve better, and we are committed to seeing that they receive it.
- 420** If only 6 to 9 LHJs have a school program, why not have a 3rd party do the inspections?
- 420** The insurance pools could do these inspections at a much lower cost if at no cost.
- 420** 366-420(1) If LHO inspections are actually going to happen, I'd highly recommend that LHO are required to be WITH an appropriate school official to make this an effective inspection. This is the best way to make change. Otherwise the report is just another sheet of paper that's not well understood.
- 420** The rule leaves it open as to who will do the inspection - LHJ or the school to arrange independently. If we staff up to manage this but schools contract elsewhere, we potentially take a large financial hit.
- 420** What about doing inspections every 2-3 years instead of yearly? It would make the financial burden more manageable for both the schools and the LHJ.
- 420** 246-366 -420 Number (1) is somewhat troublesome in light of past local experience qualified and trained or certified person may help?
- 420** #2 ,60 days seems quite long
- 420** 246.366.420 LHOs perform periodic inspections of school sites and produce inspection reports. The inspections note deficiencies but do not usually specify corrective action since the LHO does not possess the knowledge and experience to outline how the deficiency should be corrected.
- 420** The current system works well. Inspectors are a welcome second set of eyes whose observations are studied and implemented as much as practicable given scarce resources. In our county, there is a collegial relationship between the LHO and district maintenance personnel. Even so, with the work load and level of experience of building inspectors reports sometimes contain incorrect and/or impracticable observations. The inclusion of opinions – especially in areas where inspectors lack expertise and experience – is detrimental to the process. When reports mandate changes where

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- no requirements exist and districts do not respond to these suggestions they are susceptible to unwarranted criticism and complaints.
- 420 What is the appropriate training of LHO, and how will different interpretations across the state be acknowledged? Common standards needed per WAMOA.
- 420 K12 inspection guide is good when LHOs use them.
- 420 Why not have school be responsible that an inspection was made each year rather than make it the LHO responsibility?
- 420 420 Inspections / Actually, the LHO is supposed to perform the inspection and inform the school district within 60 days. As a risk manager, I believe that this shifts all of the liability from the LHO to the school official.
- 420 The ability of the LHO to approve self-inspection by school officials or other entities is beneficial and should remain in the regulation.
- 420 Inspection Frequency. The proposed rule would mandate annual school inspections. This has caused concern from local health jurisdictions due to capacity issues. We would like to point out that there is already an established inspection frequency outlined in Appendix B, School Inspection Protocols, of the OSPI-DOH *Health and Safety Guide for K-12 Schools in Washington*. The inspection protocols, including the frequency range, were drafted by the School Facilities Health and Safety Advisory Committee, a statewide committee formed in 1996 and comprised of stakeholders such as DOH, OSPI, local health jurisdictions, risk managers, etc. The committee "supported either an annual inspection or a two to three year frequency with some additional coordination in alternate years". Since this frequency has already been established and supported by a statewide group of stakeholders, it does not make sense that it did not receive consideration in the proposed rule. We have a very effective school program that operates within this suggested frequency range and request that DOH consider maintaining this in lieu of the proposed annual inspections.
- 420 Self Inspections. We have heard some concerns expressed regarding the allowance for schools to conduct self inspections, the liability they may assume, and the whether or not the local health jurisdiction is fulfilling its responsibility by allowing self inspections. Our experience is this: a school is responsible to ensure it provides a safe and healthy environment whether we are in there or not. In fact, our inspections provide only a snapshot of a school. Self inspections, on the other hand, have proven to be a very effective way to identify and address hazards in schools.
- 420 Schools personnel are more familiar with their facilities than we are and they are in them regularly. When trained, they can recognize and correct hazards early, before they become a major concern. We have observed repeated examples of schools conducting the self inspections and making corrections prior to sending in the reports. Schools have reported that they can allot more time conducting their own inspections than when coordinating schedules with us. The outcome of the self inspection program has been very positive and has proven to provide safer healthier schools than our previous traditional inspection program.
- 420 The role of Local Health Officials needs to be analyzed and clarified: Too much left up to their decision, for example site cleanup in section 2. We need cleanup standards or reference to existing standards (for example from the Department of Ecology) to measure against instead of leaving it up to individual judgement. There needs to be a uniform application of the rules all across Washington and uniform qualification and training requirements for LHOs to ensure that all school districts are treated equally. What is an appropriate educational background and training for a LHO? According to this update, and LHO is supposed to be an expert in a very broad variety of environmental health issues from sound reduction to assessment of potentially contaminated sites to playgrounds, drinking water, science laboratory safety, indoor air quality and more.
- 420 As you well know, many areas of the proposed rules have raised serious concerns such as the authority of the LHO, does the LHO have authority over the local authority having jurisdiction? What will be the LHO qualifications?
- 420 246-366-420: (Paragraph 1) – Who funds this?
- 420 I have always contended LHO's would have the greatest impact on improving and maintaining safety in public schools if they used their limited resources to teach school staff how to effectively conduct a inspection (using the Health & Safety Guide), and help school staff to learn the potential dangers associated with unsafe health, safety and environmental safety. So much could be achieved if the LHO's and school staff worked as a team to achieve our common goal.
- 420 Permit Clause To be able to carry out the inspection requirement of this rule, Local Health jurisdictions need defined authority to permit schools. We recommend that a permit clause be added. Proposed changes: 246-366-420 Local Health Officers' Responsibility. (1) The LHO may require and issue a valid permit to operate.
- 420 246-366-420 Local Health Officers' Responsibility. (3) When day care, preschool, headstart or other similar programs are located in K-12 schools, the LHO shall consult Department of Health day care regulations on health and safety in

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accordance with 388-295 WAC. (Note that 388-150 WAC, which is referred to in the 2003 School Health and Safety Guide, has been repealed and replaced with 388-295 WAC.)

- 420** 246-366-420 (1) Does this training already exist or does It need to be developed?
- 420** 246-366-420 Local Health Officers Responsibility. Section 1 requires that LHO inspect each school annually. This should not be mandated in the regulation but rather resolved by the LHD. The frequency of inspection mandated in this regulation will directly effect our ability to prioritize resources as we balance demands from other programs. Unless the Board of Health can clearly demonstrate that such a frequency will be a benefit to public health, it should be left up to the local health department.
- 420** The LHO should have a clear line of responsibility and authority when directed to approve sites, plans, and pre-occupancy and complete annual inspections.
- 420** Many questions emerge separately from school district and LHO adding additional expense to LHO plan review, pre-opening and inspection programs. A few examples of emerging questions:
How will the LHO fund the plan reviews and inspection programs?
Do school officials send copies of inspection reports to be filed or to be reviewed by the LHO?
When inspection reports are incomplete, where is the authority to request additional information?
Who decides if inspections are in depth and cover all aspects of the code?
Is enforcement part of the inspection or plan review?
- 420** (1) Recommend rewriting this section to state that "The LHO shall inspect each school annually. Upon request from local school officials the LHO may approve self inspections by personnel trained to conduct EH and safety inspections as stated under 246-366-410(4)(a)" as a substitute to inspections performed by the LHO."
- 420** We didn't see where the rules authorize the LHO or DOH to charge for the required inspections, etc.
- 430** 246-366-430 #1 I believe Workgroup and SRDC supported this proposal but with concern for implication of future science advancement to be incorporated in 5 years (i.e. Mold, acceptable numbers for minimal exposure, and new sampling or remediation methods).
- 430** #2 I suggest replacing "may" with "will" as a checks and balance measure.
- 430** #3 Switch term "may" to "will" and remove "as resource permits" as this must be done.
- 430** Health dept clause "as resources permit" but the same is not given to school districts.
- 430** 430 DOH investigation of events / O.K. if the word "may" is not changed to "shall" during this review period.
- 430** 430 DOH collection of data / O.K. if the word "may" is not changed to "shall" during this review period. If DOH wants student accident data they can obtain it from the property and liability insurance carriers without creating another bureaucratic data collection system that will only show the same data. For instance, if I want accident and injury data on school staff I can readily obtain it from L & I. Why create another burden on the schools to keep and report student accidents to another agency when the insurance companies already have that information?
- 430** Section 246-366-430 (3) The department may collect student accident and injury data ... This section infers that the schools would be obligated to provide this information. At this point, we do not have full-time nurse staff at many of our facilities. This section would be onerous in the amount of money required to prepare statistics for transmittal. This section should be deleted.
- 430** The Department of Health's Responsibilities (246-366-430) are very few and it appears that the Department is distancing itself from responsibilities. The wording "as resources permit" is inserted in this section, while the same consideration for limiting resources is totally missing from the responsibilities of school districts.
- 430** Page 23 (3) SRDC Proposal #28 Need to add on a statewide reporting system This should have been done in 1993 when IAQ problems came up. We were always told we had to have 20% of the population get ill. There was no collecting of data or school so conveniently you can't see how widespread the problems are in the State. Another unfunded mandate.
- 430** 246-366-430 (2) The department, in cooperation with the local health jurisdiction, may investigate school related environmental health and safety incidents. Add but the local health jurisdiction maintains the lead agency status and the role of the department is to provide additional resources as requested by the LHO, school district, administration or board.
- 430** 246-366-430 (3) Isn't this an OSPI function?

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- 430** It would be desirable to collect illness and injury data between the time this rule is implemented and when it is reviewed and updated (per Section -430) so that the next revision can more accurately reflect sound scientific data. Otherwise, we can fall into the trap of writing rules to address an individual occurrence rather than properly addressing population-based environmental health.
- 430** 246-366-430 (3) Add "illness" to data section.
- 430** Monitoring, reporting and record keeping for death, injury and illness will provide valuable data for the future direction of the school code.
- 440** 440 / WOW! -- If it costs too much to provide a safe and healthy school the LHO can exempt the school from complying!?!?! As a risk manager, I do not understand this section at all. Government should not impose requirements that will place an excessive burden on any school -- except those that are required to meet basic safety and health requirements -- and there should be no exemption from compliance. Perhaps you want to include a paragraph on "variances." A variance is NOT an exemption from compliance, but provides a regulatory official a vehicle to allow substantial compliance with the substance of the code via a different method that still provides equal protection. (See the Building Code definition of Alternate materials, design and methods... Section 104.11.)
- 440** Exemption Clause Modify clause to allow Local Health Jurisdictions to provide a variance to rule requirements. Proposed changes: 246-366-440 Exemption (1) The state board of health or the LHO may, at ~~its~~ their discretion, exempt a school facility from complying with parts of these rules ~~regulations~~ when it has been found after thorough investigation and consideration that such exemption may be made in an individual case without placing the health or safety of the students or staff of the school in danger and that strict enforcement of the regulation would create an undue hardship upon the school.
- 440** 246-366-440 (1) Is there a process in place? Is monetary consideration taken into account in this instance? The cost of water testing alone will be a considerable burden for most districts_
- 440** How do you apply for an exemption?